

20 NOVEMBER 1947

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Of  
WITNESSES

Defense' Witnesses

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SHIDEHARA, Kijuro

33547

Direct by Mr. Brooks

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Cross by Mr. Comyns Carr

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I N D E X

Of

EXHIBITS

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of  
EXHIBITS  
(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
1767A(11)		3479-I	Telegram from Consul-General HAYASHI to SHIDEHARA, dated 28 October 1931		33625 33627

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33626

20 NOVEMBER 1947

I N D E X  
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(cont'd)

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AFTERNOON RECESS

33626

1 Thursday, 20 November 1947

2 - - -

3  
4 INTERNATIONAL MILITARY TRIBUNAL  
5 FOR THE FAR EAST  
6 Court House of the Tribunal  
7 War Ministry Building  
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,  
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting with  
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.  
15 WEBB, Member from the Commonwealth of Australia and  
16 HONORABLE JUSTICE R. B. PAL, Member from India, not  
17 sitting from 0930 to 1600; HONORABLE JUSTICE HENRI  
18 BERNARD, Member from the Republic of France, not sitting  
19 from 1330 to 1430.

20 For the Prosecution Section, same as before.

21 For the Defense Section, same as before.

22 - - -

23 (English to Japanese and Japanese  
24 to English interpretation was made by the  
25 Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are  
4 present except MATSUI and SHIRATORI who are repre-  
5 sented by counsel. We have certificates from the  
6 prison surgeon at Sugamo certifying that they are ill  
7 and unable to attend the trial today. The certificates  
8 will be recorded and filed.

9 With the Tribunal's permission the accused  
10 TOGO will be absent from the courtroom the whole of  
11 the morning session conferring with his counsel.

12 Will the Clerk pass out the exhibit and then  
13 we will proceed with the reading of the report of the  
14 Commissioner.

15 MR. BROOKS: If the Tribunal please, has  
16 this exhibit been now received into evidence or just  
17 marked for identification to be read into evidence  
18 subject to objections? Why I ask that is because if  
19 it is marked for identification and being read into  
20 evidence subject to objections then objections are  
21 proper; but if it is received into evidence, I could  
22 not object to parts being offered because it would  
23 already be in evidence. It would be improper.

24 ACTING PRESIDENT: Under the ruling yesterday  
25 it was admitted in evidence subject to objections at

1 the proper time by counsel, and whatever objections  
2 are upheld will be stricken from the record.

3 MR. BROOKS: Thank you, your Honor; I just  
4 wanted to understand the procedure I was to follow.

5 ACTING PRESIDENT: I understand that the re-  
6 port of the Commissioner was served on the Judges but  
7 I have not received a copy. The Clerk has no extra  
8 copy.

9 Will you proceed?

10 CLERK OF THE COURT: Language Section, do  
11 you have a copy of the covering order for simultaneous  
12 translation?

13 (Reading): "International Military Tribunal  
14 for the Far East -- The United States of America, et al.  
15 vs. ARAKI, Sadao, et al. -- No. 1.

16 "Report of the Honorable Mr. Justice  
17 Northcroft (Member for New Zealand), Commissioner  
18 Appointed to Take Evidence of Witness, SHIDEHARA,  
19 Kijuro.

20 "WHEREAS, on the 10th day of November 1947  
21 the Tribunal ordered that the evidence of SHIDEHARA,  
22 Kijuro, a witness whose testimony was sought by  
23 Counsel for the defendants in this trial and who on  
24 account of illness was unable to attend before the  
25 Tribunal, should be taken upon commission before me,

1 AND WHEREAS on Tuesday, the 11th day of November 1947,  
2 the witness SHIDEHARA, Kijuro appeared before me at  
3 his residence in the City of Tokyo and (I being  
4 satisfied that the witness was in possession of his  
5 mental faculties and fit to give evidence) his evidence  
6 was duly heard and taken, AND WHEREAS Messrs. Brooks,  
7 Alfred W.; Furness, George A, and OKAMOTO, Toshio, of  
8 Counsel for the Defense, and Mr. Comyns Carr, A.;  
9 Colonel Woolworth, G. S.; and Mr. Liu, T.C. of Counsel  
10 for the Prosecution, were present at the hearing,  
11 AND WHEREAS the witness, with the approval of all  
12 Counsel present and himself consenting, testified in  
13 English, and was cross-examined and reexamined by  
14 Counsel on behalf of the Prosecution and the Defense;  
15 AND WHEREAS a Court Reporter and a Language Arbiter  
16 were present throughout the hearing;

17  
18 NOW THEREFORE, I, E. H. NORTHCROFT, Member  
19 of the International Military Tribunal for the Far  
20 East, HEREBY REPORT to the Tribunal that the evidence  
21 of the witness SHIDEHARA, Kijuro has been duly taken  
22 on commission before me in accordance with the order  
23 of the Tribunal of 10th November 1947, and I HEREBY  
24 CERTIFY that the transcript of proceedings attached  
25 hereto, comprising 70 pages numbered successively  
1 to 70, signed by me, is a true, correct and complete



1 record of the proceedings of the Commission, that the  
2 document also attached hereto and marked with the  
3 letter 'A' is the affidavit of the said witness  
4 tendered as an exhibit in the course of the said  
5 proceedings, that the documents further attached  
6 hereto and marked successively with the letters 'B,'  
7 'C,' 'D,' 'E,' 'F,' 'G,' 'H,' 'I,' and 'J' are  
8 further exhibits tendered and received in evidence  
9 in the course of the said proceedings.

10 "Dated at Tokyo, Japan, this 17th day of  
11 November 1947.

12 "(Signed) E. H. NORTHCROFT."

13 MR. BROOKS: If your Honor please, that  
14 last statement that certain letters, B, C, et cetera,  
15 down to J, are "exhibits tendered and received in  
16 evidence," I ask that that be amended to show subject,  
17 of course, to objections. Every one of those was  
18 objected to.

19 ACTING PRESIDENT: That ruling has already  
20 been announced. There is no need for any more argu-  
21 ment on it.

22 Will the Clerk proceed to read the order  
23 appointing the Commissioner, pages 3 and 4?

24 CLERK OF THE COURT (Reading): "Case No. 1  
25 The United States of America, et al. vs. ARAKI, Sadao,

et al.

1 "Commission to Take the Deposition of  
2 SHIDEHARA, Kijuro.

3 "The Defense having offered in evidence the  
4 affidavit of SHIDEHARA, Kijuro, together with verified  
5 certificate executed by HIROTOSHI, Hashimoto, attend-  
6 ing physician, certifying that the said SHIDEHARA is  
7 ill and unable to attend this trial and give his  
8 testimony in person and, the Prosecution objecting to  
9 the giving in evidence of the testimony of the said  
10 SHIDEHARA without opportunity to cross-examine him at  
11 this time, it also appearing that the said SHIDEHARA  
12 resides in the suburbs of Tokyo, it is, therefore,  
13 duly considered by this Tribunal that the evidence of  
14 the said SHIDEHARA should be taken by deposition before  
15 one of the Members of this Tribunal as Commissioner,  
16 and it is  
17

18 "ORDERED: That the deposition of the witness  
19 SHIDEHARA, Kijuro be taken before the Honorable Mr.  
20 Justice Northcroft, a Member of this Tribunal, as  
21 Commissioner so to do, at the residence of the said  
22 SHIDEHARA, Kijuro on the 11th day of November, 1947  
23 at the hour of 2:00 p.m. or as soon thereafter as the  
24 said Commissioner may determine, and from day to day  
25 and hour to hour thereafter until completed, and the

et al.

1 "Commission to Take the Deposition of  
2 SHIDEHARA, Kijuro.

3 "The Defense having offered in evidence the  
4 affidavit of SHIDEHARA, Kijuro, together with verified  
5 certificate executed by HIROTOSHI, Hashimoto, attend-  
6 ing physician, certifying that the said SHIDEHARA is  
7 ill and unable to attend this trial and give his  
8 testimony in person and, the Prosecution objecting to  
9 the giving in evidence of the testimony of the said  
10 SHIDEHARA without opportunity to cross-examine him at  
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18 "ORDERED: That the deposition of the witness  
19 SHIDEHARA, Kijuro be taken before the Honorable Mr.  
20 Justice Northcroft, a Member of this Tribunal, as  
21 Commissioner so to do, at the residence of the said  
22 SHIDEHARA, Kijuro on the 11th day of November, 1947  
23 at the hour of 2:00 p.m. or as soon thereafter as the  
24 said Commissioner may determine, and from day to day  
25 and hour to hour thereafter until completed, and the

1 Honorable Mr. Justice Northcroft is hereby designated  
2 and appointed as Commissioner before whom said  
3 deposition shall be taken; that a sufficient number  
4 of court reporters of this Tribunal, with the assist-  
5 ance of interpreters of this Tribunal, shall record  
6 the testimony given and that said deposition, when  
7 taken, transcribed and translated, shall be filed  
8 with the Secretariat of this Tribunal;  
9

10 "Further, that the Secretariat of this  
11 Tribunal is directed to make the necessary arrange-  
12 ments for the taking of this deposition.

13 "Dated this 10th day of November, 1947 at  
14 Tokyo, Japan.

15 "FOR THE TRIBUNAL:

16 "Myron C. Cramer, Major General, Acting  
17 President."

18 ACTING PRESIDENT: Mr. Brooks.

19 MR. BROOKS: Mr. President, it might be  
20 well to state that the record shows that the  
21 Commission met at 1400 and the part that was just  
22 read by the Clerk was read by Mr. Lynch on the request  
23 of the Commissioner -- at the top of page 3.

24 Now, continuing on page 5, at the top of  
25 page 5. (Reading):

THE COMMISSIONER: I will ask my associate

1 to administer the oath to the witness.

2 - - -

3 K I J U R O S H I D E H A R A, called as a witness  
4 on behalf of the defense, being first duly sworn,  
5 testified in English as follows:

6 THE COMMISSIONER: Yes, Mr. Brooks. You  
7 have the affidavit?

8 MR. BROOKS: I have defense document No. 1964,  
9 the affidavit of SHIDEHARA, Kijuro. Haven't we the  
10 original here?

11 MR. LYNCH: Yes, sir.

12 MR. BROOKS: You had better give him that.

13 (Whereupon, a document was handed  
14 to the witness.)

15 DIRECT EXAMINATION

16 BY MR. BROOKS:

17 Q You are looking at defense document 1964,  
18 Baron SHIDEHARA. Is that your affidavit?

19 A 1964, yes.

20 Q Is that your affidavit?

21 A Yes, that is my affidavit.

22 Q Are the contents thereof true and correct?

23 A Yes.

24 MR. BROOKS: We offer defense document 1964,  
25 the affidavit of SHIDEHARA, Kijuro, into evidence.



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2 - - -

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10 original here?

11 MR. LYNCH: Yes, sir.

12 MR. BROOKS: You had better give him that.

13 (Whereupon, a document was handed  
14 to the witness.)

15 DIRECT EXAMINATION

16 BY MR. BROOKS:

17 Q You are looking at defense document 1964,  
18 Baron SHIDEHARA. Is that your affidavit?

19 A 1964, yes.

20 Q Is that your affidavit?

21 A Yes, that is my affidavit.

22 Q Are the contents thereof true and correct?

23 A Yes.

24 MR. BROOKS: We offer defense document 1964,  
25 the affidavit of SHIDEHARA, Kijuro, into evidence.

1 THE COMMISSIONER: It will be received and  
2 marked with the letter "A" for identification.

3 (Whereupon, document No. 1964 was  
4 marked defense exhibit A and received in  
5 evidence.)

6 Do you wish to supplement it? (End reading)

7 MR. BROOKS: At this time may it be given a  
8 regular exhibit number, your Honor?

9 ACTING PRESIDENT: It may be given exhibit  
10 No. 3479-A.

11 (Whereupon, exhibit A was marked  
12 defense exhibit No. 3479-A and received in  
13 evidence.)  
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MR. BROOKS: (Reading continued)

MR. BROOKS: If your Honor please, I do not wish to supplement it. I do not know whether it is necessary to read it at this time or not.

THE COMMISSIONER: If counsel are agreed, I suggest we do not take time reading it but that the court reporter merely transcribe it as if, indeed, it had been read.

MR. BROOKS: Then may it be transcribed starting with paragraph 2 as if I had read the affidavit.

THE COMMISSIONER: Might I suggest you start at 1 which describes the witness.

MR. BROOKS: All right. I'll start at 1, then. On the date of the oath in the back, there is an error there. That should be July 28, 1947. It appears as 1931 by error. (End reading)

That is on page 3 of exhibit 3479A, if your Honor please. Also on page 9 this same error appears. It was copied in the record. I ask that that correction be made: "July 28, 1931" be changed to "July 28, 1947."

(Reading continued):

"1. My name is SHIDEHARA, Kijuro. My age is 76, having been born in 1872. My address is No.

1219, Okamoto-Lachi, Setagaya, Tokyo.

"2. At the time of the Mukden Incident of September 18th, 1931, I was the Foreign Minister, while General MINAMI was the War Minister, both being members of the WAKATSUKI Cabinet.

"On the morning of September 19, i.e., the next day after the outbreak of the Incident, an extraordinary Cabinet meeting was called. On that occasion, I reported the receipt of a telegram from the Japanese Consul-General in Mukden to the Foreign Office, stating that a little after 10 o'clock of the 18th the Chinese troops had blown up the South Manchurian Railway lines in the vicinity of Liutiokuo, Mukden -- (end reading)

That is misspelled there. It should be:  
L-i-u (dash) T-i-' (dash) K-u-o.

(Reading continued):

-- and clashed with our railway garrison. War Minister MINAMI then reported that he also had received a similar telegram from the Kwantung Army. As these telegraphic reports from the district concerned were very brief, the situation was too obscure for the government to make any judgment at that time. (end reading)

I would like to submit here, if the Court

1 please, that this paragraph is to clear up a state-  
2 ment made by SHIDEHARA as prosecution witness at  
3 page 1339 of the record. The next paragraph is  
4 numbered 2 by error. "2" should be stricken. It  
5 was corrected on the errata sheet.

6 (Reading continued)

7 "Cabinet meetings were held every day  
8 thereafter and the situation on the spot became grad-  
9 ually distinct. Hence, War Minister MINAMI declared  
10 that the central army authorities (the General Staff  
11 and the War Office) should make every possible effort  
12 to prevent the expansion of the Incident, although  
13 the action of the Kwantung Army originated from its  
14 proper aim of guarding the railway. All the members  
15 of the Cabinet, being in accord therewith, decided  
16 upon the Government policy of non-expansion, which  
17 was proclaimed at home and abroad on September 24.

18 "3. The WAKATSUKI Cabinet resigned en bloc  
19 on December 10, 1931. Up to that time, however, I  
20 did my best, always in cooperation with War Minister  
21 MINAMI, to prevent the aggravation of the Incident.  
22 It is, therefore, simply a mischievous rumor spread  
23 by persons, who do not know the true facts, to circu-  
24 late such an unfounded story as the one purporting  
25 that I had come into loggerheads with War Minister



1 MINAMI on account of our maintenance of opposite ideas  
2 at meetings of the Cabinet and that the friction be-  
3 tween us two extended even to our personal emotions.  
4 Actually from that time to this day I have been on  
5 intimate terms with General MINAMI." (end reading)

6 At this point I would like to submit for  
7 the reference of the Court page 20065 and 6 as to  
8 what MINAMI says about the TANAKA statement of this  
9 mischievous rumor as to opposition between SHIDEHARA  
10 and MINAMI which is one thing that this part is put  
11 in to meet. I also wish to refer the Tribunal to  
12 SHIDEHARA's testimony on page 1334, line 13 to page  
13 1335, line 7; page 1376, line 16 to 21; page 1338,  
14 lines 13 to 18. If the Court sees fit, I will omit  
15 reading the oath.

16 ACTING PRESIDENT: That is not necessary.

17 MR. BROOKS: (Reading continued)

18 THE COMMISSIONER: Have you any supplement-  
19 ary questions?

20 MR. BROOKS: I have no supplementary ques-  
21 tions, and the prosecution may cross-examine.

22 THE COMMISSIONER: Please do so, Mr. Carr.

23 (End reading)

24 MR. BROOKS: Mr. Carr will take over now,  
25 I understand.

1 MR. WARREN: If the Tribunal please, at  
2 this time, representing the accused DOHIMARA, I de-  
3 sire to object to all of the cross-examination com-  
4 mencing on page 10 and continuing through to page 43  
5 of the exhibit.

6 ACTING PRESIDENT: I do not understand why  
7 you counsel do not seem to understand the procedure  
8 of the Court. Your various objections will be enter-  
9 tained as they come up and not en bloc.

10 MR. WARREN: Perhaps the Tribunal does not  
11 understand the position of counsel. That is what I  
12 want to make plain. I am certain the Tribunal has  
13 not as yet understood the position of this counsel.

14 ACTING PRESIDENT: We will not have another  
15 argument. But, if you have individual objections,  
16 you may state them.  
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1 MR. WARREN: Your Honor, I do have, and I  
2 should like to be heard on it. I will make it as  
3 brief as possible.

4 The objection which I made embraces testimony  
5 brought before the Commission by the prosecution con-  
6 cerning the accused DOHIHARA and is outside the scope of  
7 the affidavit and in no way touches it. Now, we  
8 were not notified that this hearing would take place  
9 although the prosecution undoubtedly knew that they  
10 intended to introduce evidence against General  
11 DOHIHARA. The Charter provides, among other things,  
12 that the Tribunal shall be conducted in a language  
13 understandable to the accused, yet there is no Japan-  
14 ese copy of this, and, consequently, my Japanese coun-  
15 sel is still uninformed except as I have been able to  
16 do through an interpreter, and we have been unable to  
17 discuss this.

18 I am sorry, your Honor, Mr. Comyns Carr in-  
19 forms me that I am completely wrong, there is a Japan-  
20 ese copy. It has never been served on us. Mr. Brooks  
21 apparently does not have one because I searched dili-  
22 gently for it and have not been able to receive one.

23 I should like to refer the Tribunal, my ob-  
24 jection only goes to this -- this might straighten  
25 something out -- my objection only goes to B through J,

1 that is all that they are. These are introduced one  
2 right after the other. They are, as you know, your  
3 Honor, a series of telegrams purporting to give the  
4 situation in Manchuria. The accused MINAMI on the  
5 witness stand, at page 19, 821 of the record, admits  
6 that he was informed at all times, so the purpose of  
7 the cross-examination could not be directed at him  
8 because it could not possible impeach him, he admitted  
9 it.

10 I should like to read the question and the  
11 answer, which is short:

12 "Q Did Baron SHIDEHARA, the Foreign Minister,  
13 keep you informed from time to time of the reports that  
14 he was receiving from the consuls in Manchuria and  
15 China?" The answer is "Yes."

16 THE MONITOR: Mr. Warren, what document is  
17 that, sir?

18 MR. WARREN: That is the record, page 19,821  
19 of the record for April 11, 1947.

20 Further in the cross-examination of the  
21 accused MINAMI and commencing at page 19,888 of the  
22 record for April 14, 1947, the prosecution by cross-  
23 examination attempted to go into the very same matters  
24 which they did in this Commission hearing. Now, I  
25 don't want to read this record, but I do wish that the

1 Tribunal would look at it at some later time.

2 I made several objections to Mr. Carr's  
3 attempt to cross-examine a witness from a document  
4 which the witness had not seen. I even went so far  
5 as to become so impertinent as to say that I thought  
6 they did not have any such documents. After a con-  
7 siderable discussion with the President of the Court  
8 in which I asked that Mr. Carr be required to mark  
9 his exhibits for identification so that we might  
10 meet them when DOHIHARA's case came up, the President  
11 made this remark, which appears on page 19,892 of the  
12 record. This remark was directed to Mr. Comyns Carr.

13 "The President: In such case, you ought to  
14 tender the document for identification if you refer  
15 to it, but that is all you can be expected to do."

16 Previously, on page 19,890 of the record,  
17 the President had told Mr. Carr the following: "If  
18 you expressly refer to documents not already in evi-  
19 dence, then, following the practice of this Tribunal,  
20 we will ask you to tender it for identification at  
21 the end of the examination." There were other remarks  
22 at that time, and if the Tribunal will read the record it  
23 will find out that I am absolutely correct.

24 Now, if the Tribunal please, it is more than  
25 passing strange that the identical references made at



1 the time that I quoted the record are the identical  
2 things which were introduced in a case against MINAMI  
3 when the accused DOHIHARA was not represented. I  
4 may be in error, but there is no doubt in my mind  
5 that the documents which were introduced in this hear-  
6 ing that we are now discussing were in the hands of  
7 Mr. Comyns Carr on that day and were not marked for  
8 identification. Had they felt that they were admissible  
9 they could have offered them at that time when the  
10 accused DOHIHARA was completely represented, and at  
11 a time when the witness was available on that witness  
12 stand for cross-examination.

13 Now, we were precluded because -- I mean pre-  
14 cluded from answering these documents in our case in  
15 chief for DOHIHARA because the prosecution chose not  
16 to follow the advice and request of the Tribunal. And  
17 inasmuch as we were not represented before this hear-  
18 ing, were not invited, were not notified, and have not  
19 been served with Japanese copies, we feel that to  
20 permit these to come in would be a great injustice  
21 at this time, especially when a mere -- especially  
22 when the slightest perusal will indicate to the Court  
23 that they are directed against DOHIHARA and not  
24 MINAMI, and are not within the scope of the affidavit.  
25

SHIDEHARA

1 MR. BROOKS: If the Tribunal please, I would  
2 like to object -- enter a similar objection, limited  
3 to part of the affidavit from page 10 to page 63, if  
4 the Court wishes to hear me, and I could cover all of  
5 that at this time. Otherwise I will abide by whatever  
6 ruling the Court says.

7 I wasn't intending to raise any objection  
8 until it came up at a later period but we can do it  
9 all at one time if the Court so desires and save time.

10 ACTING PRESIDENT: That was the ruling of  
11 the Court.

12 Mr. Comyns Carr.

13 MR. COMYNS CARR: May it please the Tribunal,  
14 the long dissertation, prefaced with the expression it  
15 was going to be short, to which we have just listened  
16 only illustrates the inconvenience of disregarding the  
17 directions of the Tribunal. The objections when they  
18 come to be heard turn out not to be general at all,  
19 with one exception, but particular relating to each  
20 document.

21 The only general one is that my friend Mr. Warren  
22 was not personally notified that in the course of the  
23 cross-examination of Baron SHIDEHARA on commission his  
24 client, DOHIHARA, would be mentioned. Actually, I  
25 received a message from the defense asking whether

1 SHIGEMITSU would be mentioned in the course of the  
2 cross-examination and I replied that SHIGEMITSU, as  
3 far as I could see, would not but DOMIHARA would. If  
4 that message, which was no obligation as far as I know  
5 on the prosecution to give, did not reach my friend  
6 Mr. Warren, I am sorry. And if he did not choose to  
7 attend the proceedings as a matter of precaution, which  
8 my friend Mr. Furness on behalf of SHIGEMITSU in spite  
9 of that message did do, that isn't the prosecution's  
10 fault. In any case, he is in no way prejudiced because  
11 the documents were admitted subject to objection and  
12 here he is taking the objection.

13 Now, when it comes to the objection itself, it  
14 is supported by much inaccuracy. What happened is this:  
15 During the cross-examination of MINAMI, MINAMI repeatedly  
16 stated that although SHIDEHARA had some times spoken to  
17 him in the cabinet about reports that he was receiving  
18 from consuls in China, he denied that SHIDEHARA had  
19 ever sent him a copy of any of them or shown any of  
20 them to him, and with regard to each of these particular  
21 documents he denied specifically that the subject  
22 matter of them had ever been mentioned to him by  
23 SHIDEHARA.

24 MR. PROOKS: If the Tribunal please, I would  
25 like the reference to the record on a statement like

1 that because I don't believe the record bears the  
2 prosecution out.

3 MR. COMYNS CARR: In due course that shall be  
4 done.

5 In each case -- I think I am right in saying  
6 every one but the majority of them at all events and  
7 I think I can refer to the record for every one of them --  
8 having asked him first of all whether he had been shown  
9 these reports, and he denied ever seeing any of them,  
10 I then put questions to him based upon the contents of  
11 them. It was at that point that the discussion arose,  
12 part of which has been referred to out of its context  
13 by my friend Mr. Warren, at page 19,889 of the record.  
14 Having put to him a question based upon the document --  
15 the two documents which are now exhibits F and G to  
16 this affidavit, Warren then took the objection and made  
17 the observation to which he referred that he didn't  
18 believe any document existed, and then claimed that  
19 the document should be marked for identification. And  
20 I then drew attention to the ruling which the Tribunal  
21 had given that morning that unless there was a document  
22 which the witness could prove as being his own document  
23 there was no necessity to produce it as the witness  
24 wouldn't be able to recognize it, it couldn't be marked  
25 as an exhibit, and there was no necessity to have it

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25 as an exhibit, and there was no necessity to have it



1 marked for identification, and that questions could be  
2 put on a matter of fact whether the facts were obtained  
3 from a document or not.  
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1           At page 19,891, I submitted to the Tribunal  
2 in these words: "But the question is, at what stage  
3 it is proper to produce the document; and, in my sub-  
4 mission, unless it is a document which the witness  
5 can identify of his own knowledge, the proper stage  
6 is in rebuttal."

7           And again I submitted: "When I am merely  
8 putting a question without reference to the document  
9 as a document, the fact that the question is based  
10 upon a document is immaterial and does not require  
11 it to be produced at that stage."

12           The President said: "Well, is there any-  
13 thing in doubt? Proceed with the cross-examination."

14           And I proceeded, as I had been doing before  
15 the objection was taken.

16           Now, if MINAMI had admitted, as SHIDEHARA  
17 has now sworn, that SHIDEHARA supplied him with a  
18 copy of every one of these documents, then the docu-  
19 ment could properly have been put in during the cross-  
20 examination of MINAMI, but MINAMI denied it repeatedly,  
21 of which an example is on page 19,904, where I  
22 was cross-examining him about a document already  
23 exhibited, exhibit 300, and he replied: "At that  
24 time not one single telegram was sent around to  
25 us from the Foreign Office, and I did not hear of

1 that from SHIDEHARA; and, as a matter of fact, I heard  
2 of it for the very first time in this very Tribunal  
3 the other day." And he repeated that over and over  
4 again with regard to numbers of these telegrams he  
5 was asked about, and he simply said, "No, I never saw  
6 any of them."

7 Naturally, the defense is anxious to exclude  
8 from evidence of the Tribunal the fact that SHIDEHARA  
9 has sworn the exact opposite, that he sent him a copy  
10 of every one.

11 The objection taken by my friend Mr. Warren  
12 would exclude the whole of his answers relating to  
13 that matter; and so, I think, would the objection  
14 which my friend Mr. Brooks is taking.

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1           Coming to the individual documents, Baron  
2 SHIDEHARA's answer that he had sent MINAMI copies of  
3 all of them applied, first of all, to the whole of  
4 those -- of which there were a considerable number --  
5 which have already been exhibited.

6           It applied, secondly, to the whole of the  
7 additional documents of the same kind, namely, consular  
8 reports tendered in the cross-examination, all of  
9 which, of course, would have appeared without wasting  
10 the time of the Tribunal if I had been allowed to read  
11 the cross-examination and the objection had been taken  
12 at the proper time.

13           The whole of these documents are, therefore,  
14 in the first place, evidence against MINAMI, because  
15 SHIDEHARA, contradicting MINAMI's statement, has sworn  
16 that he sent a copy of each of them to MINAMI at the  
17 time it was received. No doubt most of them also  
18 referred to LOHIHARA, and are in a different sense and  
19 from a different point of view also evidence against  
20 DOHIHARA. All of them could have been tendered in  
21 rebuttal, founded upon the questions put to MINAMI and  
22 his denials; and if any opportunity for the purpose had  
23 been given during the presentation of DOHIHARA's case,  
24 they could also have been used in cross-examination  
25 then, and if denied, that would have been a further



1 ground for tendering them in rebuttal. It might or  
2 might not have been necessary, in rebuttal, to have  
3 tendered on behalf of the prosecution, a further affi-  
4 davit by SHIDEHARA stating that he had sent the copies  
5 of them to MINAMI; however, the defense have saved us  
6 that trouble by calling SHIDEHARA and giving us the  
7 opportunity of cross-examining him.

8 The last objection, I understand, is that this  
9 matter is not within the scope of the affidavit. The  
10 affidavit is one purporting to cover the whole of the  
11 Manchurian Incident down to the resignation of the  
12 WAKATSUKI Cabinet on December 10, 1931. And I refer  
13 in particular to the sentence at the beginning of  
14 paragraph 3 of the affidavit on page 8 of the record:

15 "The WAKATSUKI Cabinet resigned en bloc on  
16 December 10, 1931. Up to that time, however, I did  
17 my best, always in cooperation with War Minister  
18 MINAMI, to prevent the aggravation of the incident."

19 To enable the Tribunal to judge of the extent  
20 and value of MINAMI's cooperation, it is obviously  
21 helpful, in my submission, to know what information  
22 SHIDEHARA supplied to MINAMI in order to ask what  
23 steps -- to consider with MINAMI's own evidence -- what  
24 steps if any he took upon that information.

25 ACTING PRESIDENT: We will take a recess for

1 fifteen minutes.

2 (Whereupon, at 1045, a recess was taken  
3 until 1100, after which the proceedings were  
4 resumed as follows:)

5 - - -

6 MARSHAL OF THE COURT: The International  
7 Military Tribunal for the Far East is now resumed.

8 ACTING PRESIDENT: Mr. Comyns Carr.

9 MR. COMYNS CARR: I think I have covered  
10 all the ground, and, with regard to the individual  
11 exhibits, it would probably be more convenient if I  
12 gave the record references to them as I come to each  
13 one, but if the Tribunal desires to have them all  
14 now, I can give them all now.

15 ACTING PRESIDENT: The Tribunal would prefer  
16 to hear them now.

17 MR. COMYNS CARR: If your Honor please, I  
18 would just like to say that, in my submission, for  
19 the purpose of introducing documents in the cross-  
20 examination of the witness SHIDEHARA, it is not in  
21 the least necessary that the contents of them should  
22 have been put to MINAMI.

23 The subject matter of exhibit B was referred  
24 to in MINAMI's cross-examination at pages 19,879 and  
25 19,895 to -6; exhibit C, also pages 19,895 to -6.

1 MR. BROOKS: If your Honor please, I think  
2 it is irrelevant and immaterial what appears in  
3 MINAMI's testimony. The basis for this admission  
4 of this evidence is that it is within the scope  
5 of this affidavit, and it has nothing whatsoever to  
6 do with anything about trying to plug holes in some  
7 case or get their own witness, the prosecution wit-  
8 ness, to change their whole story after he has been  
9 cross-examined and re-examined.

10 ACTING PRESIDENT: The Tribunal has just  
11 indicated its desire that these be read at the  
12 present time. You will please continue with the  
13 reading, Mr. Comyns Carr.

14 MR. COMYNS CARR: The subject matter of  
15 exhibit D was referred to at pages 19,881 to -2;  
16 exhibit E, also page 19,882; exhibit F, pages  
17 19,888 to -94. The length of that reference is  
18 due to the fact that it was on that particular  
19 occasion that the argument took place as to whether  
20 the document should be produced for identification  
21 or not. Exhibit G, also in the course of the same  
22 pages; exhibit H, pages 19,909 to -12, exhibit I,  
23 pages 19,883 to -4; exhibit J, pages 19,883 to -4  
24 and also pages 19,895 to -6.  
25

Yes, those are all, and at most of those

1 pages, if not all of them -- I think, all of them --  
2 it will be found that MINAMI denied having seen any  
3 such telegrams or heard any such report from  
4 SHIDEHARA. There are also numerous other pages on  
5 which the same matters were referred to, besides  
6 those I have mentioned.

7 The only other thing I have to say is that  
8 I find I was wrong in saying the Japanese copy of  
9 the whole of this transcript of the commission  
10 evidence has been served, but copies of the exhibits  
11 in English and Japanese have been served -- dis-  
12 tributed to the whole of the defense.

13 MR. WARREN: If the Tribunal please,  
14 references counsel has just given to the Tribunal  
15 are, in the main, the ones that I refer to along  
16 the same place. Counsel states that the subject  
17 matter of these telegrams were referred to. We  
18 well knew that at the time. We asked him if he  
19 would, and the Tribunal suggested to him that he  
20 mark them for identification. MINAMI never saw  
21 them. Counsel states to the Tribunal, in sub-  
22 stance, that it would be useless to show MINAMI the  
23 telegrams, because he had merely seen them and they  
24 were not of his own creation.  
25

Since counsel chose to refer in all the

reports, MINAMI said he had such reports.

1           Now, if your Honor please, I want to refer  
2 specifically to the quotation of counsel, from the  
3 record on page 19,904, in which only part of the  
4 record was quoted and would leave the impression  
5 with the Tribunal, unless they had a copy of the  
6 record in front of them, that we were talking about  
7 the Mukden Incident, as all these exhibits, which  
8 were introduced before the commission, were.  
9

10           Now, your Honor, it is true that he was  
11 asked if he was not so informed by SHIDEHARA at  
12 that time, and he said, "No," but in that instance,  
13 your Honor, and in the question before, it was  
14 very plain, because Mr. Comyns Carr asked him,  
15 "Isn't it the truth, as stated by KUWASHIMA in  
16 exhibit 300 ...," which we answered and which we  
17 brought evidence in to show that it was pure,  
18 rank hearsay.  
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1           ACTING PRESIDENT: Can't you cut your  
2 sentences a little shorter, Colonel Warren?

3           MR. WARREN: Yes, I shall, sir. I realize  
4 my error.

5           Now, your Honor, let's look at the reference  
6 given to the Court by my friend on page 19,888 to see  
7 whether or not MINAMI denied these things that counsel  
8 said he did. The question: "Were you informed in  
9 the Cabinet that HAYASHI, the Consul General, had  
10 reported on the 16th and 19th of October that DOHIHARA  
11 was retiring in favor of a Chinaman nominated by  
12 himself?" The answer in part, he starts out: "No --  
13 yes, I do not know exactly how long ago DOHIHARA was  
14 Mayor." He didn't deny it there.

15           Counsel says he did in the next question; and  
16 that next question is, "Were you informed that the  
17 Japanese officials who had assisted DOHIHARA as mayor  
18 were in the future to act as advisers to his Chinese  
19 successor?", but I am unable to read in there the  
20 suggestions made by Mr. Carr.

21           Now, your Honor, to get away from the  
22 quotations, because I asked the Tribunal to read all  
23 of that and determine for themselves. But counsel  
24 himself states that this would be good on rebuttal. I  
25 agreed with him at the time, I still agree with him,

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2 sentences a little shorter, Colonel Warren?

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18 were in the future to act as advisers to his Chinese  
19 successor?", but I am unable to read in there the  
20 suggestions made by Mr. Carr.

21           Now, your Honor, to get away from the  
22 quotations, because I asked the Tribunal to read all  
23 of that and determine for themselves. But counsel  
24 himself states that this would be good on rebuttal. I  
25 agreed with him at the time, I still agree with him,

1 if there would be any rebuttal testimony that it  
2 might be good at that time, subject to proper  
3 objection. However, the fact remains that it is  
4 not rebuttal. It was used at a time when we were  
5 not notified. Mr. Carr knows I represent DOHIHARA,  
6 and he admits that I was not given notice. He now  
7 admits that there was no Japanese copy as I first  
8 told the Tribunal.

9 I submit, your Honor, that the quotations  
10 given by counsel are not correct as to the meaning  
11 which he hopes to convey to the Tribunal because it  
12 refers to other incidents.

13 I submit that the entire proceedings with  
14 reference to the accused DOHIHARA, had before the  
15 commission, was an attempt upon the part of the  
16 prosecution to do by indirection what they would not  
17 be permitted to do directly in this Tribunal.

18 I submit, further, that my objection is  
19 timely because it has to do with a series of documents  
20 all related and so indicated by the prosecution  
21 markings.

22 I submit that the Charter provides that an  
23 accused is entitled to have counsel represent him at  
24 any stage of the proceedings in which evidence is  
25 taken against him. I submit that that was not complied

with, not through any fault of counsel. Law is not  
a question of hide and seek; it is a question of  
bring it in the open before the Tribunal, and I  
resent the fact that I was not notified so I could  
have been there and presented my objections to Lord  
Northcroft at the time.

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1           ACTING PRESIDENT: I don't think we care to  
2           hear any more of your argument, Mr. Carr.

3           Captain Brooks, inasmuch as Colonel Warren has  
4           brought up the point that the documents presented by  
5           the prosecution go beyond the scope of the witness'  
6           affidavit, I think it would be convenient for the  
7           Court to hear your argument on that point now.

8           MR. BROOKS: I would first like to state from  
9           the record, at page 19,891, that in relation to these  
10          documents which the prosecution were supposedly cross-  
11          examining MINAMI on, as we expected at that time, the  
12          prosecution should have put these documents into evidence  
13          if the witness denied them. To make it clear what the  
14          ruling of the Court might be in such a case, I stated  
15          as follows at line 7 on page 19,891:

16          "Mr. Brooks: I take it, your Honor, that if  
17          the prosecution asks the witness on a document that he  
18          says he has, as to what the witness has stated, and the  
19          witness states he does not or he doesn't say it, the  
20          prosecution is bound by the answer unless the prosecu-  
21          tion puts the document into evidence to show that he  
22          didn't state otherwise."

23          Mr. Comyns Carr interrupted and said:

24          "Your Honor, nobody would dispute that proposi-  
25          tion, but the question is, at what stage it is proper to

1 produce a document, and in my submission unless it is a  
2 document which the witness can identify of his own  
3 knowledge, the proper stage is in rebuttal."

4 Continuing:

5 "Mr. Brooks: I submit, your Honor, that when  
6 we are talking on matters that occurred 25 or 26 years  
7 ago, the witness should at the close at least be given  
8 a chance to refresh his recollection on what was said,  
9 and to call back into his mind those facts. We should  
10 also have the right of redirect examination over the  
11 same points if there is any matter that needs clearing  
12 up.

13 "Mr. Carr: Your Honor, I put my questions  
14 quite clearly and in my submission it couldn't help the  
15 witness to look at a document unless it is his own docu-  
16 ment.

17 "The President: In such case you ought to  
18 tender the document for identification if you refer to  
19 it. That is all you can be expected to do.

20 "Mr. Carr: If your Honor pleases, might I sub-  
21 mit, however, that when I am merely putting a question  
22 without reference to the document as a document, the  
23 fact that the question is based on a document is  
24 immaterial and does not require it to be produced at  
25 that stage."

1           Now we see that the purpose was not as last  
2           stated by the prosecutor, that since the witness was  
3           not given a chance to refresh his recollection and the  
4           documents were not marked for identification, the  
5           prosecutor is now trying to say that these are the docu-  
6           ments which he showed to the witness.

7           I withdraw that last statement because the  
8           documents were not shown to the witness; but that these  
9           were the documents upon which the witness was questioned.

10          If he had been trying to test his credibility  
11          at that time he would have, after asking him about the  
12          documents, have offered them to show that such and such  
13          documents were within this man's knowledge. He would  
14          not have had to produce them from a Foreign Office file  
15          because if they had been sent from the Foreign Office  
16          -- copies of them -- to the War Ministry, he could have  
17          produced them from the War Ministry files. I think that  
18          I would produce evidence upon this in the future, to show  
19          that such documents were not in the War Ministry files  
20          and never had been, if it becomes necessary to meet  
21          this matter as new evidence.

22          However, I state that the Court should hold the  
23          prosecution as bound by the answer of this witness, for  
24          the prosecution failed to produce the documents at that  
25          time, which was the proper time. I further state that

1 this is not the proper way to impeach a witness. If  
2 the witness had been questioned on the documents and  
3 then they had been marked for identification, or shown,  
4 or offered in evidence, that would be a way, but there  
5 is no proof that this is the document shown at the time  
6 and the witness has not had the chance to refresh his  
7 recollection thereon or to amend his answer, after be-  
8 coming acquainted with the details, if he did deny it.

9 ACTING PRESIDENT: What we are particularly  
10 interested in hearing from you at the present time is  
11 your argument that these documents go beyond the affi-  
12 davit of the witness.

1 MR. BROOKS: I am going into that right now,  
2 sir. I am not stating that MINAMI denies this, be-  
3 cause I have not had a chance to check the record.  
4 However, I do state that in this case he has not  
5 been given an opportunity to refresh his recollection  
6 or to deny the documents presented before the com-  
7 mission.

8 Now, my objection to the matter on cross-  
9 examination covers from the last question on page 10  
10 to the last question on page 63 as being improper,  
11 cross-examination not within the scope of the affi-  
12 davit. I might refer the Court for an argument on  
13 that to record page 1356, line 22, to court record  
14 page 1360, line 14, for the argument by Justice Mans-  
15 field of the prosecution on limiting cross-examination  
16 to matters concerned within the examination in chief  
17 which has been adopted by this court; and also a  
18 reference to court record page 1369, lines 2 to 19,  
19 for Mansfield's argument that the prosecution should  
20 be furnished documents at least twenty-four hours in  
21 advance before a witness can be questioned; and  
22 under similar circumstances, at pages 1370 and 1371,  
23 the Tribunal states: "You cannot use such documents  
24 until you have complied with the rules."  
25

That is why at the time of the taking of



1 this commission this type of cross-examination was  
2 unexpected, and I did not have the record of the  
3 testimony of SHIDEHARA or MINAMI before me for re-  
4 examination on matters covered by the prosecution  
5 which were outside the scope of the affidavit and  
6 conflict in many instances with the previous testi-  
7 mony of SHIDEHARA in some ways which can only be found  
8 by examination of the record, which was not available  
9 before the commission at SHIDEHARA's home.

10 If we had had twenty-four hours service of  
11 notice, I would have taken objection to the last  
12 question on page 10 at the time, because the answer  
13 appears to this question at record page 1324, June  
14 25, 1946, starting at line 7. Therefore my objec-  
15 tion is that it is not only repetitious but is out-  
16 side the scope of the direct examination or of the  
17 affidavit.

18 It might also be stated that on page 1333  
19 the prosecution witness SHIDEHARA at that time denied  
20 receiving official reports and said he only heard  
21 rumors. See his answer at line 18, page 1333.  
22 This matter was not only repetitious then, but it was  
23 covered again on redirect examination at record page  
24 1384 over objection of being repetitious and trying  
25 to get the witness to change his previous answers.

1           On page 11 I refer the Tribunal to page  
2 19,910, line 14, to page 19,915 where the witness  
3 MINAMI on cross-examination deals with this matter  
4 of DOHIHARA as not being one of his officers, and his  
5 counsel admits there that DOHIHARA was not under the  
6 chain of command of MINAMI.

7           THE MONITOR: Whose counsel is this, Mr.  
8 Brooks?

9           MR. BROOKS: DOHIHARA's counsel, Mr. Warren;  
10 and also on 19,916 and 19,917, which show that this  
11 is immaterial and irrelevant besides being repetitious.

12           Now, this affidavit, if the Court will notice,  
13 covers a period from September 18 to December 10,  
14 1931, on three matters. Going to page 7, I will point  
15 out the three matters on which I took an affidavit  
16 from a prosecution witness.

17           Point 1, in the center of page 7, that War  
18 Minister MINAMI reported that he also had received  
19 a similar telegram from the Kwantung Army.

20           At the top of page 8, point 2, that all the  
21 members of the cabinet decided upon the government  
22 policy of non-expansion, which was proclaimed at home  
23 and abroad on September 24 and which I offered in evi-  
24 dence and it was rejected.

25           On point 3, as to the mischievous rumor

1 of the unfounded story of their being at loggerheads  
2 with the War Minister, MINAMI. Now, the prosecution  
3 in the cross-examination deal with point 3 at page  
4 66, and the only place he touches, in my opinion,  
5 on points 1 and 2 is in the first question at page  
6 10, and in between the last question on page 10  
7 to the last question on page 63 is cross-examination  
8 on matters that are not proper and which I am object-  
9 ing to in toto and which, I may state, covers that  
10 portion of the cross-examination objected to by other  
11 defense counsel.

12 ACTING PRESIDENT: We will adjourn until  
13 1:30.

14 (Whereupon, at 1200, a recess was  
15 taken.)  
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## AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International  
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Mr. Brooks.

MR. BROOKS: If the Tribunal please,  
continuing my objection as to specific questions,  
on June 25 and 26, 1946, the prosecution offered  
exhibit 156, SHIDEHARA's affidavit, and the testi-  
mony from 1318 and 1398 covered the matters from the  
last question on page 10 of this Commission, exhibit  
3479, to the last question on page 63 thereof.

As to the question on page 15 of this  
exhibit 3479 as to the prosecution's impeaching this  
witness, I wish to compare the testimony of SHIDEHARA,  
line 10, page 1334, where he said as a prosecution  
witness, "I merely talked to MINAMI about these  
reports." The allowance of a question as set out on  
page 15 of this exhibit would allow the prosecution  
to impeach their own witness.

On page 20 I objected to the prosecution  
document 1767A(5), marked B for identification, and  
as to all the documents from C to J, I renewed this  
objection as their being outside the scope of the

1 affidavit and not proper cross-examination. And as  
2 Colonel Woolworth has handled MINAMI's case up until  
3 this time and Mr. Carr has always handled DOHIHARA's  
4 case, this suspicious circumstance in itself led me  
5 to make the statement that it is not only outside the  
6 scope of the affidavit and not proper cross-examination  
7 but that they deal with DOHIHARA and it is an attempt  
8 to introduce new evidence outside the direct examina-  
9 tion through a witness who had appeared generally  
10 for the prosecution and whose testimony for the  
11 defense was limited in this affidavit to the three  
12 matters in the individual case of MINAMI.

13 Now, as to MINAMI's denying seeing certain  
14 telegrams, I have only had time to check a few  
15 places but at page 19,879 of the record of 14 April  
16 1947, he said that he did not see the telegram as to  
17 the Self-Government Guidance Board in Mukden but  
18 that SHIDEHARA spoke to him of the reports thereon.  
19 I submit to the Tribunal the question of whether it  
20 would discredit this witness MINAMI to show that he  
21 may have been mistaken where he has not denied  
22 knowledge of the rumors or reported facts therein.

23 Now see record page 19,878, line 22, and  
24 19,888 to 19,892 where MINAMI reports he knew DOHI-  
25 HARA was mayor for one month from the HAYASHI report.



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21 may have been mistaken where he has not denied  
22 knowledge of the rumors or reported facts therein.

23 Now see record page 19,878, line 22, and  
24 19,888 to 19,892 where MINAMI reports he knew DOHI-  
25 HARA was mayor for one month from the HAYASHI report.

1 All these documents offered are from Foreign Office  
2 files. I submit also that that is not the best  
3 evidence of their having been sent to the War Min-  
4 istry and I ask why were not the War Ministry files  
5 produced or accounted for as to such documents.

6 MR. COMYNS CARR: Your Honor, I submit there  
7 should be a limit to the amount of repetition.

8 MR. BROOKS: Wait until I get through;  
9 then you can answer.

10 MR. COMYNS CARR: I am not seeking to  
11 answer. I am objecting to counsel repeating himself  
12 and putting over and over again the same arguments  
13 that he has put in the course of three and a quarter  
14 hours of wasting the time of this Tribunal.

15 ACTING PRESIDENT: I understood that counsel  
16 was referring to different specific instances.

17 MR. BROOKS: That is right. I have very  
18 little more, if your Honor please. I will ignore  
19 the interruption.

20 The prosecution, I submit, has set up a  
21 straw man to knock down and to try to confuse the  
22 issues before this Court. As evidence, go to page 36  
23 where my objection is in relation to further testimony  
24 as to a new regime in Manchuria, prosecution document  
25 1767A(17), identified as exhibit H.

1 I submit that MINAMI does not deny knowledge  
2 as to the facts set out as may be seen at page 20,063  
3 of the record where MINAMI states SHIDEHARA and  
4 MINAMI both sent telegrams to prevent any Japanese  
5 from interfering in or participating in such move-  
6 ments as were rumored.

7 Recently, at record page 32,861 and also  
8 32,862, I covered these telegrams, exhibits 286  
9 and 299, sent by these men and it is clear from an  
10 examination here that, although MINAMI denied at the  
11 time that he knew, later he found out through  
12 SHIDEHARA a few days later as this evidence shows.

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1           The part on page 43 of this exhibit 3479  
2 is also objected to as being an attempt to get the  
3 witness to change testimony that he gave on cross-  
4 examination as a prosecution witness, made at page  
5 1334 and following said page; and again on page 45  
6 of this exhibit 3479 another attempt was made to  
7 change the testimony of SHIDEHARA here.

8           I wish to refer the Tribunal to page 1392,  
9 line 17 for SHIDEHARA's statement on redirect exam-  
10 ination as to the Kwantung Army having materials on  
11 hand and that any idea of cutting off supplies was,  
12 therefore, impossible as a step to suppress the  
13 spread of the incident.

14           Again on page 49, more repetitious matter  
15 is found, and I refer the Court to page 1392, line  
16 17 for SHIDEHARA's previous statement thereon which  
17 the prosecution again tried to get him to change at  
18 page 50.

19           I refer the Court to record page 19916 and  
20 19917 and to 20054 to 20056 as to the matter on  
21 page 50. Here the prosecution got their former wit-  
22 ness to change his testimony to a certain extent.  
23 However, cross-examination later clarified this  
24 somewhat. Maybe I should have said redirect.

25           As to page 55, I refer to the 14 April,

1 1947, record page 19873 to 19875 and a reference to  
2 page 20061 to 20062 as to investigations made of this  
3 rumor proving it to be without foundation and show-  
4 ing these questions to be repetitious.

5 At page 57 I objected to all this as out-  
6 side the affidavit, and I stated that to save time I  
7 wished I could enter a continuing objection. This  
8 would bring me down to the last question on the bot-  
9 tom of page 63. The balance from there on is, in my  
10 opinion, within the scope of the affidavit, possibly,  
11 and admissible.

12 ACTING PRESIDENT: Mr. Furness.

13 MR. FURNESS: If the Tribunal please, I  
14 understand my name was mentioned this morning, and I  
15 would, therefore, like to say something with regard  
16 to that. I came to Mr. Comyns Carr's room the morn-  
17 ing that this Commission was to take testimony and  
18 was told that they did not know whether or not my  
19 client, Mr. SHIGEMITSU, would be involved in the  
20 cross-examination.

21 ACTING PRESIDENT: There was nothing deroga-  
22 tory said about you, Mr. Furness. I see no --

23 MR. FURNESS: But I think I should correct  
24 any statement, your Honor, that mention to me was  
25 made of any other defendant because I can say without



1 any hesitation that I only mentioned my client, Mr.  
2 SHIGEMITSU, and Mr. Comyns Carr at the Imperial  
3 Hotel said only my client would not be involved and  
4 that he did not say to me that Mr. Warren's client,  
5 Mr. DOHIHARA, might or would be involved.

6 ACTING PRESIDENT: We will let the matter  
7 rest right there. Whether he did or did not say that  
8 has no material bearing on the matter that we are  
9 considering.

10 MR. FURNESS: I can only say that if he had  
11 said any such thing to me, I would have immediately  
12 tried to get in touch with General DOHIHARA's coun-  
13 sel.

14 ACTING PRESIDENT: I do not think it is  
15 necessary to follow that.

16 MR. COMYNS CARR: I didn't propose to say  
17 anything about that, your Honor. I don't know if  
18 the Tribunal desires to hear me on any of the entire-  
19 ly new objections never mentioned before which Mr.  
20 Brooks raised in the course of what was supposed to  
21 be his reply to my argument on the objections which  
22 had been raised.

23 THE PRESIDENT: The Tribunal does not care  
24 to hear anything further. The Tribunal overrules the  
25 objections made by counsel for both DOHIHARA and

MINAMI.

1 MR. WARREN: May we have individual object-  
2 ions on these, to us, objectionable documents?

3 ACTING PRESIDENT: You were told long ago  
4 that to any adverse rulings exceptions were auto-  
5 matically taken.

6 MR. WARREN: Your Honor, objections, not  
7 exceptions, sir.

8 MR. COMYNS CARR: May I be heard on that,  
9 your Honor?

10 ACTING PRESIDENT: Maybe I misunderstood  
11 you. May I ask you to repeat your request?

12 MR. WARREN: At the time these documents  
13 are read, some of them have objections inherent with-  
14 in the document itself which we have never objected  
15 to, and I should like to make my objection at that  
16 time.

17 MR. COMYNS CARR: Your Honor, I should like  
18 to be heard on that question before the Tribunal  
19 gives any such permission.

20 ACTING PRESIDENT: We have heard very full  
21 and lengthy discussion of your objections, and we do  
22 not feel that we need any further discussion on any  
23 particular.  
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1 MR. WARREN: No, your Honor, some of these ob-  
2 jections the Court did not permit me to go into and I  
3 didn't do so, and those objections go to the document,  
4 the specific document, itself which I didn't go into.  
5 I have been deprived of cross-examination and if the  
6 Tribunal doesn't want me to make those objections I  
7 shan't do so.

8 ACTING PRESIDENT: That is the universal feel-  
9 ing of the Tribunal.

10 MR. COMYNS CARR: Now I will read the cross-  
11 examination, beginning at page 10, line 6. (Reading:)

12 CROSS-EXAMINATION

13 BY MR. COMYNS CARR:

14 Q Baron SHIDEHARA, I see you say that up to the  
15 time of the resignation of the WAKATSUKI Cabinet you did  
16 your best always in cooperation with War Minister MINAMI  
17 to prevent the aggravation of the incident.

18 A Yes.

19 Q Did you have reason to suppose before the  
20 incident actually occurred that something of the  
21 kind was about to happen?

22 A I did. You see, I had no official informa-  
23 tion; but the civilian residents in Manchuria, quite  
24 many of them, four or five, they came to me, to the For-  
25 eign Office, and they said that something extraordinary

1 was going on. Some young officers came to them and  
2 ordered some help; they wanted certain things. I don't  
3 remember what things they were, but some certain things  
4 should be stored there at such place and some other things  
5 should be stored at other places, and so on. They didn't  
6 know why these young officers came to them and wanted  
7 those things, and so they naturally became suspicious  
8 that something was going on, some war-like preparation  
9 might be going on; and they asked me if I had any infor-  
10 mation about it. I said I had no information whatever.  
11 But, as they were men who were right there in Manchuria --  
12 in Mukden, in Harbin, and so forth -- and I believed  
13 there must be something in those reports, I immediately  
14 rung up General MINAMI, who was then Minister of War,  
15 and I said I had something to talk with him.

16 He came to me, and I said that some people from  
17 Manchuria came to me and asked me if I knew anything  
18 about these movements of your young officers; and I also  
19 became suspicious, so I said that the first thing for  
20 him would be to maintain the strictest discipline among  
21 these young officers there, not go out of their ordinary  
22 way, but they should mind their own business, not to go  
23 about seeking for some warlike materials to be stored at  
24 different places.

25 THE COMMISSIONER: Is this extending beyond

1 what is relevant?

2 MR. COMYNS CARR: No. I should have continued  
3 to ask about this if he hadn't told us.

4 MR. BROOKS: If your Honor please, I should like  
5 to object to this. This affidavit, if the Court will  
6 notice, covers a period between September 18 --

7 THE COMMISSIONER: Just a moment. Do state  
8 your objection very shortly. You want to say that it  
9 is not within the scope of the affidavit?

10 MR. BROOKS: That is right.

11 THE COMMISSIONER: Very well. I overrule you  
12 subject to your right to raise that again before the  
13 Tribunal. Will you continue then, Mr. Carr.

14 MR. COMYNS CARR: I would like the Baron to  
15 continue if the court reporter will just remind him  
16 where he got to.

17 MR. BROOKS: If your Honor please, I would  
18 like to make another objection that it is repetitious  
19 since this is also a prosecution witness, and it  
20 appears that what he is talking about is right in  
21 the record.

22 THE COMMISSIONER: From Baron SHIDEHARA?

23 MR. BROOKS: He has been a prosecution  
24 witness, and he has testified about it.

25 THE COMMISSIONER: That objection will also



1 be noted for consideration by the Tribunal.

2 (Whereupon, the official court  
3 reporter read as follows:)

4 "A ---- but they should mind their own busi-  
5 ness, not to go about seeking for some warlike  
6 materials to be stored at different places."

7 Q Would you continue with what you wanted to  
8 say, Baron, from that point. This is what you were  
9 telling General MINAMI.

10 A Yes. I wanted to tell him that this is a  
11 very serious thing if the report is true, and I have  
12 every reason to believe that the reports are true.  
13 And he quite agreed with me, and he told me he would  
14 do his level best to maintain discipline among these  
15 officers. He had really been doing his level best  
16 already, but I reminded him he would try again if any-  
17 thing untoward might not happen.

18 Q Did he say what he would do?

19 A He didn't say what he would do, but I pre-  
20 sumed that he would come into contact with the offi-  
21 cers there in Manchuria.

22 R I see. Now, after the incident broke out,  
23 did you receive a number of reports from your dip-  
24 lomatic and consular officers in China and Man-  
25 churia?

1 MR. BROOKS: I object to that, if your  
2 Honor please. The question is outside the scope of  
3 this affidavit. It is not proper cross-examination.

4 THE COMMISSIONER: Yes, I permit the ques-  
5 tion subject to your right to resume it before the  
6 Tribunal.

7 Yes, you may answer the question, Baron  
8 SHIDEHARA.

9 A Well, of course, we received a number of  
10 telegrams from our consuls in Mukden, Consul General  
11 in Mukden, and also from other consuls in other  
12 places.

13 Q Yes. Let me just remind you of their  
14 names. Was HAYASHI the Consul General in Mukden?

15 A He was, yes, sir.

16 Q And was a man named MOISHIMA acting under  
17 him in Mukden?

18 A Yes, yes.

19 Q Was KUWASHIMA the consul General in Tientsin?

20 A KUWASHIMA? I am sure he was in Tientsin,  
21 yes.

22 Q Was ARAKAWA the Consul General in Yinkow  
23 and also in Niuchang?

24 A ARAKAWA? I don't remember.

25 Q You don't remember him? I may show you a

1 document regarding him. Was YAMAZAKI an official  
2 of the Foreign Office in Liaoyang? Do you remember  
3 him?

4 A I know him personally, but I can't say for  
5 a certainty whether he was in Liaoyang or in other  
6 places.

7 Was TSUKAMOTO the Governor General of  
8 Kwantung?

9 A Yes.

10 Q And was YANO the Counsellor in Peiping?

11 A Yes.

12 Q Do you remember receiving reports from all  
13 of those persons about what was happening in con-  
14 nection with the incident?

15 A It is very difficult for me to remember.

16 Q Yes. It may be necessary for me to show  
17 them to you. I thought, perhaps, we could save time  
18 if you remembered. Whatever reports you got from  
19 your subordinates on the spot, did you send copies  
20 of them to General MINAMI?

21 A I did.

22 Q Did you supply copies to anybody else other  
23 than General MINAMI?

24 A To the Prime Minister, WAKATSUKI.

25 Q Yes. Anybody else?

1           A    I don't think that I had sent copies to  
2 anybody else, only the Prime Minister and War  
3 Minister. Of course, I also sent a copy to the  
4 Navy Minister.

5           Q    The Navy Minister?

6           A    Yes.

7           Q    But, the particular question I want to ask  
8 you is, can you say whether you did or did not send  
9 copies to the Chief of the General Staff?

10          A    I think I did, yes. I think I did.

11          Q    You think you did.

12          A    Yes, I think I did.

13          Q    Now, I had better ask you this: Did you  
14 also, in the case of the more important ones, bring  
15 them up and discuss them in the Cabinet?

16          A    After the incident?

17          Q    Yes, after the incident.

18          A    Oh, yes.

19               MR. COMYNS CARR: I had better go through  
20 them now and get you to identify them. May I have,  
21 first of all, exhibit 2193, please? 2193, 4 and 6.

22          Q    Is that one of those which you received and  
23 which you supplied General MINAMI with a copy?

24               It is so long time ago, it is very diffi-  
25 cult to --

1 Q Yes, but let us try and see if we can't.  
2 Do I understand you to say that you supplied General  
3 MINAMI with copies of all those which you received?

4 A Practically all of those telegrams.

5 Q Yes.

6 A I don't think I made any exception.

7 Q You don't think you made any exception.

8 A I don't think I made any exception.

9 MR. COMYNS CARR: Well, in that case, per-  
10 haps there is no object in going through them in  
11 detail so far as they are already exhibited.

12 THE COMMISSIONER: That is for you to de-  
13 cide.

14 MR. BROOKS: I was going to object to his  
15 going through them. I can't see any use in going  
16 through these telegrams since they are already ex-  
17 hibits in evidence.

18 THE COMMISSIONER: There is no need to dis-  
19 cuss it. Mr. Carr does not propose to.

20 MR. COMYNS CARR: The only other thing I  
21 had better do with regard to them in detail is,  
22 there are a large number from KUWASHIMA in Tientsin.

23 Q Are those included in your answer that you  
24  
25



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22 had better do with regard to them in detail is,  
23 there are a large number from KUWASHIMA in Tientsin.

24 Q Are those included in your answer that you  
25

1 supplied him with copies of those?

2 A I remember that all these telegrams bearing  
3 upon the Manchurian Incident, I sent a copy of these  
4 telegrams to the Army and the Navy.

5 Q Yes.

6 A By the Army I mean including the General  
7 Staff.

8 Q You mean both the War Minister and the  
9 General Staff?

10 A Yes.

11 Q I see.

12  
13 MR. COMYNS CARR: Then I may take that as  
14 applying to all of them. There is just one name I put  
15 to him which he couldn't remember. I had better  
16 just show him one of them to remind him that this  
17 man was one of the people. Might he look at exhibit  
18 294?

19 MR. BROOKS: 2194 didn't you mean?

20 MR. COMYNS CARR: No, 294 this time.

21 MR. BROOKS: Well, he is giving the wrong  
22 one.

23 THE COMMISSIONER: The one just now was  
24 2193, the earlier one.

25 MR. COMYNS CARR: Yes, but what I am asking  
for is 294.

MR. BROOKS: And you have given him 2194.

1 Q (Continuing) That is not the right one,  
2 Baron. Hand it back and they will hand you the  
3 right one.

4 Do you notice that that is a telegram from  
5 ARAKAWA, Consul General at Yinkow, addressed to --  
6 you needn't trouble to read it, Baron. But, does  
7 that remind you that ARAKAWA was the Consul General  
8 at Yinkow? It is dated the 13th of November, 1931.  
9

10 A Yes. He is not the Consul General, of  
11 course. He is simply Consul.

12 Q Consul, I see.

13 A Yes, but I don't remember exactly whether  
14 he was posted at that time in Niuchang.

15 Q It is the same place as Yinkow?

16 A Yes.

17 Q Well, we have telegrams, amongst the ex-  
18 hibits, from him to you under both names but as  
19 coming from Yinkow in one case and Niuchang in the  
20 other. You say they are the same place?  
21

22 A Yes.

23 Q Well, I needn't ask you any more about  
24 those. But now, there are certain additional tele-  
25 grams which I want to ask you about which are not  
yet exhibits.

(To Mr. Lynch) Might he have prosecution document 1767A(5), please?

1 Now, is that a telegram from Consul General  
2 HAYASHI addressed to you from Mukden, dated the 21st  
3 of September, 1931? You will observe there is a  
4 certificate from the Foreign Ministry attached to it  
5 showing that it comes from the Foreign Ministry files  
6 as one sent to you on that date.

7 A Oh, yes, yes.

8 Q Can you, therefore, identify it as one of  
9 those you received?

10 A Yes.

11 Q And to which your previous answer applied,  
12 that there was a copy passed to General MINAMI?  
13

14 A Yes.

15 MR. COMYNS CARR: Then I ask that it be  
16 admitted in evidence.

17 THE WITNESS: Our practice is to send all  
18 these copies to War Ministry and also --

19 MR. BROOKS: I object to it, your Honor,  
20 as being improper. In the first place, I think it  
21 shows Showa 6, 1931. It is outside the scope of  
22 this affidavit. It is not even proper cross-exam-  
23 ination. It deals with DOHIHARA, and it is an  
24 attempt by the prosecution to put in new evidence  
25



1 in this case, not tied up.

2 THE COMMISSIONER: Please don't elaborate be-  
3 cause I do not intend to make final decisions. That is  
4 the function of the Tribunal.

5 MR. BROOKS: I see.

6 THE COMMISSIONER: Subject to your objection,  
7 the document will be received in evidence and marked  
8 with the letter "B."

9 (Whereupon, document 1767A(5) was marked  
10 prosecution exhibit "B" for identification.)

11 MR. COMYNS CARR: May it now be marked as an  
12 exhibit to the present document?

13 ACTING PRESIDENT: It may be so marked.

14 CLERK OF THE COURT: Prosecution document No.  
15 1767A(5) will receive exhibit No. 3479-B.

16 (Whereupon, the document above re-  
17 ferred to was marked prosecution exhibit No.  
18 3479-B, and received in evidence.)

19 MR. COMYNS CARR: In the ordinary course, your  
20 Honor, I would read it into the transcript.

21 THE COMMISSIONER: Very well.

22 MR. COMYNS CARR: Can we dispense with it and  
23 have it transcribed?

24 THE COMMISSIONER: That is convenient. If  
25 the defense have no objection, it will be treated as

1 having been read at this stage, and the reporter will  
2 be good enough to copy it completely into the trans-  
3 cript.

4 MR. COMYNS CARH: Thank you.  
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SHIDEHARA

CROSS

1 Showa 6 (1931) 12910 Code Address

2 Despatched from Mukden on 21 forenoon.

3 Received: by the Ministry on Sept 21 forenoon.

4 To; Foreign Minister SHIDEHARA

5 From: Consul-General HAYASHI

6 No. 677

7 1. In view of the present situation in and  
8 around the walled city of Mukden, the Commander of the  
9 Japanese Army on Sept 20 1931 will place said area  
10 under the temporary city administration of Japanese and  
11 Chinese acting under the army in order to promote the  
12 welfare of both Japanese and Chinese inhabitants.

13 1. The Mukden city administration area will  
14 be limited within the walled city of Mukden and its  
15 foreign settlement quarter. The South Manchurian  
16 Railway zone will remain as before.

17 1. The City administration business will be  
18 conducted at the Municipal Building which will be set  
19 up in the main street of Hsiao Hsi Men in the walled  
20 city.

21 1. The city administration business will  
22 include all matters concerning Mukden City except for  
23 cases otherwise provided for.

24 1. The officers of the city administration  
25

1 are as follows:

2 "1. The instructions for other details will  
3 be shown separately.

4 "Mayor: Colonel DOHIHARA

5 Mayoral Secretary: TOMIMURA, Junichi

6 Chief of the General Affairs

7 Section: IORIYA, Makoto

8 Chief of the Police Affairs

9 Section: TSURUOKA, Eitaro

10 Chief of the Financial Affairs

11 Section: MITANI, Suejiro

12 Chief of the Sanitary Affairs

13 Section: MORITA, Fukumatsu

14 Chief of the Public Works

15 Section of the Technical

16 Section and of the Enterprise

17 Section: YOSHIKAWA, Yasushi

18 "Besides the above other Japanese or Chinese  
19 subjects will be employed to take part in the city  
20 administration in accordance with the regulation to  
21 be issued separately.

22 "This telegram has been sent to the places  
23 mentioned in the previous message."  
24  
25

1 BY MR. COMYNS CARR (Continued):

2 Q Now, then, A(6) -- IPS document 1767A(6).

3 (To the Commissioner) Are they to be  
4 numbered now, your Honor?

5 THE COMMISSIONER: I am giving them letters,  
6 and the proceedings of the Commission will go in as  
7 one of its documents including these exhibits.

8 A Yes, it must be true.

9 Q You see the certificate attached to it?

10 A Yes.

11 Q A telegram from Consul General HAYASHI at  
12 Mukden to yourself, dated the 28th of September,  
13 1931.

14 A 28th of September, yes.

15 Q And I am not repeating the question every  
16 time, whether you passed a copy to General MINAMI,  
17 because I am taking your answer as covering all.

18 A Yes.

19 MR. COMYNS CARR: Will that be C?

20 THE COMMISSIONER: That will be received  
21 in evidence and marked with the letter "C."

22 MR. BROOKS: I wish to make an objection at  
23 the proper time.

24 THE COMMISSIONER: Subject to the objection  
25 tendered by the defense.



1 (Whereupon, document 1767A (6)  
2 was marked prosecution exhibit "C" for  
3 identification.) (End of reading)

4 MR. COMYNS CARR: May it now be marked in  
5 this proceeding?

6 ACTING PRESIDENT: It may be so marked.

7 CLERK OF THE COURT: Prosecution document  
8 No. 1767A(6) will receive exhibit No. 3479-C.

9 (Whereupon, the document above re-  
10 ferred to was marked prosecution exhibit  
11 No. 3479-C, and received in evidence.)

12 MR. COMYNS CARR (Reading):

13 "From Consul General HAYASHI at Mukden to  
14 Foreign Minister SHIDEHARA

15 "Despatched: From Mukden 28 Sept. 1931 PM

16 "Received : 28 Sept. 1931 PM

17 "Telegram No. 794 (cipher)

18 "According to what DOIHARA told MORIOKA, it is  
19 scheduled that the Local Preservation Committee  
20 organized at this time to maintain peace and order in  
21 the city of Mukden, should be led and gradually made  
22 into the central organ of administration and a dis-  
23 tinguished Chinese should later be appointed as Mayor,  
24 chosen by this committee. Furthermore, he said that it  
25 was decided that the self-defence corps now under the

1 command of our KEMPEITAI should be transferred to the  
2 above Peace Preservation Committee and unified under  
3 the name of the Peace Maintenance Corps, and it was  
4 further decided to have them organize a considerable  
5 number of policemen. It is said that to date 1000  
6 rifles were delivered for this purpose.

7 "Telegrams transmitted to China, Peiping,  
8 Nanking, Tientsin and to each consul in Manchuria."  
9 BY MR. COMYNS CARR (Continued):

10 Q Then 1767A(7). Is that a telegram from  
11 Consul General HAYASHI to yourself dated the 3rd of  
12 October, 1931? Again you will see the certificate  
13 and the file.

14 A Yes, that must be true.

15 MR. COMYNS CARR: And that will be D.

16 THE COMMISSIONER: Prosecution document  
17 1767A(7) will be received in evidence and marked  
18 with the letter "D" subject to the reservation and  
19 objection by the defense.  
20

21 (Whereupon, document 1767A(7)  
22 was marked prosecution exhibit "D" for  
23 identification.) (End of reading)

24 MR. COMYNS CARR: And I ask that it be marked.

25 ACTING PRESIDENT: It will be so admitted.

1 CLERK OF THE COURT: Prosecution document  
2 No. 1767A(7) will receive exhibit No. 3479-D.

3 (Whereupon, the document above re-  
4 ferred to was marked prosecution exhibit  
5 No. 3479-D, and received in evidence.)

6 MR. COMYNS CARR (Reading):

7 "From Consul-General HAYASHI at Mukden to  
8 Foreign Minister SHIDEHARA

9 "Dispatched: from Mukden 3 Oct. 1931 P.M.

10 Received: 4 Oct. 1931 P.M.

11 "Telegram No. 857 (Cipher - Secret)

12 "There was a rumor on the 3rd among a certain  
13 circle of the Japanese residents here that the organiza-  
14 tion of the Liaoning Autonomous Government with Yuan  
15 Chin-Kai as its leader had been decided upon. A message  
16 to this effect is said to have been wired to Japan proper.

1 This is a pure fabrication, and I heard that Yuan,  
2 for instance, told a certain influential Japanese  
3 that such a nonsensical report was extremely embarrass-  
4 sing/to him/.

5 "As for the origin of the incorrect telegram  
6 mentioned above, I guess that our newspapermen were  
7 informed that on the 2nd, yesterday, Col. DOIHARA  
8 summoned Ting Chien-Hsiu, a member of the local /Peace/  
9 Preservation Committee and persuaded him to open finan-  
10 cial and business offices; that Ting replied that since  
11 the matter was of great importance, he would answer one  
12 way or the other after thorough deliberation with the  
13 leaders, and he retired. They added their own imagina-  
14 tion to this, and tying it up with the establishment of  
15 a new regime, they spread propaganda about it as if it  
16 were an actual fact. Furthermore, in regard to the  
17 above-mentioned request by DOIHARA, Yuan Chin-Kai, Ting  
18 Chien-Hsiu. and others cannot foresee the future policy  
19 of the Japanese Army. It seems that they, hearing of  
20 the recent formation in Chinchow of the Liaoning Pro-  
21 vincial Government through the instigation of Chang Hsueh  
22 Liang, are of the opinion that it is impossible in the  
23 present situation for the local Peace Preservation Com-  
24 mittee, which is merely an organ, to keep public order in  
25 the walled city of Mukden, to start such important

SHIDEHARA

CROSS

33,609

administrative organs as financial and business offices.

"(RESTRICTED)

"Transmitted to China, Peiping, Nanking,  
Tientsin, and to every consul in Manchuria."



1 Q Now, 1767A(8), please. Is that a telegram  
2 from Consul General HAYASHI at Mukden to yourself,  
3 dated the 6th of October, 1931?

4 A Yes.

5 MR. COMYNS CARR: May that be marked E?  
6 Tendered in evidence.

7 THE COMMISSIONER: Subject to the objection  
8 of the defense, document 1767A(8) will be received  
9 in evidence and marked with the letter "E."

10 (Whereupon, document 1767A(8)  
11 was marked prosecution exhibit "E" for  
12 identification.) (End of reading)

13 MR. COMYNS CARR: And I ask that it now be  
14 received in evidence and marked.

15 ACTING PRESIDENT: It will be received in  
16 evidence and marked.

17 CLERK OF THE COURT: Prosecution document  
18 No. 1767A(8) will receive exhibit No. 3479-E.

19 (Whereupon, the document above re-  
20 ferred to was marked prosecution exhibit  
21 No. 3479-E, and received in evidence.)

22 MR. COMYNS CARR (reading):

23 "From: Consul-General HAYASHI at Mukden

24 To : Foreign Minister SHIDEHARA

25 "Dispatched: Mukden, Oct. 6, 1931, P.M.

1 Q Now, 1767A(8), please. Is that a telegram  
2 from Consul General HAYASHI at Mukden to yourself,  
3 dated the 6th of October, 1931?

4 A Yes.

5 MR. COMYNS CARR: May that be marked E?  
6 Tendered in evidence.

7 THE COMMISSIONER: Subject to the objection  
8 of the defense, document 1767A(8) will be received  
9 in evidence and marked with the letter "E."

10 (Whereupon, document 1767A(8)  
11 was marked prosecution exhibit "E" for  
12 identification.) (End of reading)

13 MR. COMYNS CARR: And I ask that it now be  
14 received in evidence and marked.

15 ACTING PRESIDENT: It will be received in  
16 evidence and marked.

17 CLERK OF THE COURT: Prosecution document  
18 No. 1767A(8) will receive exhibit No. 3479-E.

19 (Whereupon, the document above re-  
20 ferred to was marked prosecution exhibit  
21 No. 3479-E, and received in evidence.)

22 MR. COMYNS CARR (Reading):

23 "From: Consul-General HAYASHI at Mukden

24 To : Foreign Minister SHIDEHARA

25 "Dispatched: Mukden, Oct. 6, 1931, P.M.

SHIDEHARA

CROSS

33,611

Received : Oct. 6, 1931, P.M.

"Telegram No. 874 (Cipher, restricted)

Re: My telegram No. 808

"The Four Peoples Preservation Committee, whose president is Kan Chao-Hsi, is an organization whose establishment as a complete religious and charitable organization to extend relief to the poor has been authorized by the municipal office. Lately, with the above Four Peoples Preservation Committee as the basis, YOSHII, Kiyoharu and others, in conspiracy with Kan

1 Chao-Hsi and others, are planning the establishment  
2 of the new political regime and it is a fact that they  
3 are trying to negotiate with the army.

4 "It is said that the military authorities re-  
5 cognized that this maneuver would not only effect a  
6 bad influence upon the Local Peace Preservation Committee  
7 supported by the army but would also be contrary to  
8 their fundamental policies, and on the fifth, Col.  
9 DOIHARA and gendarmerie detachment Commander Mitani  
10 admonished Lieut. General Ishimitsu, who came with  
11 Yoshii, that it was very unfortunate that he was being  
12 taken advantage of by such an adventurer as Yoshii and  
13 advised Yoshii to resign voluntarily."  
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1 Q Now, document 1767A(9), please. Is that a  
2 telegram from Consul General HAYASHI to yourself  
3 dated the 16th of October, 1931?

4 A Yes, I am sure.

5 MR. COMYNS CARR: May that be received in  
6 evidence?

7 THE COMMISSIONER: Subject to the objection  
8 of the defense, that will be received in evidence,  
9 being document 1767A(9), and marked with the letter  
10 "F".

11 (Whereupon, document 1767A(9)  
12 was marked prosecution exhibit "F" for  
13 identification.) (End of reading)

14 MR. COMYNS CARR: I ask that it now be received  
15 in evidence.

16 ACTING PRESIDENT: Admitted in evidence.

17 CLERK OF THE COURT: Prosecution document  
18 No. 1767A(9) will receive exhibit No. 3479F.

19 (Whereupon, the document above re-  
20 ferred to was marked prosecution exhibit  
21 No. 3479F and received in evidence.)

22 MR. COMYNS CARR: (Reading)

23 "From: Consul-General HAYASHI at Mukden.

24 "To: Foreign Minister SHIDEHARA

25 "Dispatched: From Mukden, 16 October 1931, PM



"Received: 16 October 1931, PM

"Telegram No. 995 (Cipher)

"Although the Municipal Government office here had been composed, as you know, of Japanese section chiefs under Mayor Col. DOIHARA, in accordance with the stabilization of public peace, preparations are steadily being made under a policy of having the local preservation committee appoint a Chinese Mayor and have Chinese as chiefs of every section as soon as possible. After the above appointments have been decided it is the plan of the army to have every Japanese resign from their present posts and to utilize Japanese experts as advisors in every field. I request that the above be withheld from the press for the time being.

"Transmitted to the Minister, Peiping, Nanking, Tsingtao, Tsinan, Tientsin, Hankow, Canton and each consul in Manchuria."

Q Then document 1767A(10), please, is that a telegram from Consul General HAYASHI to yourself dated the 19th of October, 1931?

A That is quite right, yes.

THE COMMISSIONER: Subject to the same objection by the defense, the prosecution document 1767A(10) will be received in evidence and marked with the letter "G".

1 (Whereupon, document 1767A(10)  
2 was marked prosecution exhibit "G" for  
3 identification.) (End of reading)

4 MR. COMYNS CARR: I ask that it be received  
5 and marked.

6 ACTING PRESIDENT: It will be admitted.

7 CLERK OF THE COURT: Prosecution document  
8 No. 1767A(10) will receive exhibit No. 3479G.

9 (Whereupon, the document above re-  
10 ferred to was marked prosecution exhibit  
11 No. 3479G and received in evidence.)

12 MR. COMYNS CARR: (Reading)  
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"From: Consul-General HAYASHI at Mukden

"To: Foreign Minister SHIDEHARA

"Dispatched: From Mukden 19 October 1931, P. M.

"Received: 19 October 1931, P. M.

"Telegram No. 1034 (Cipher)

"Re: My telegram No. 995

"Chao Hsin-po, though recommended as Mayor of Mukden by the local preservation committee flatly refused to accept that post. However, upon the earnest advice of Col. DOIHARA, he accepted that post on the 18th. Therefore, it has been arranged that within the next two or three days, as soon as the preparations for the taking over of the business of municipal administration are completed Chao will formally assume the post of Mayor, and Mayor DOIHARA and all the Japanese section chiefs will resign from their posts.

"This telegram has been transmitted to China, Peiping, Nanking, Tientsin, Harbin, and Kirin."

Q Document 1767A(17), please. Is that a telegram from Consul General HAYASHI to yourself dated the 27th of October 1931?

A Yes.

THE COMMISSIONER: That is tendered, is it?

MR. COMYNS CARR: That is tendered.

1 THE COMMISSIONER: Subject to the objection  
2 by the defense, document 1767A(17) will be received  
3 in evidence and marked with the letter "H."

4 ("Whereupon, document 1767A(17)  
5 was marked prosecution exhibit "H" for  
6 identification). (End of reading.)

7 MR. COMYNS CARR: And now may it be received  
8 in evidence, your Honor?

9 ACTING PRESIDENT: It is now admitted in  
10 evidence.

11 CLERK OF THE COURT: Prosecution document  
12 No. 1767A(17) will receive exhibit No. 3479H.

13 ("Whereupon, the document above  
14 referred to was marked prosecution exhibit  
15 No. 3479H and received in evidence.)

16 MR. COMYNS CARR (Reading):

17 "From Consul-General HAYASHI at Mukden

18 "To Foreign Minister SHIDEHARA

19 "MUKDEN, Dispatched. P. M., October 27, 1931.

20 "Received: P. M., October 27, 1931.

21 "Telegram No. 1122 (Code, Restricted)

22 "Telegram from me to Tientsin

23 "No. 17

24 "HSIEH-CHIEH-SHIH visited me on 27th and  
25 confided in me as follows:



1 "By making a cat's paw of LO CHEN-YU, some  
2 of the members of the staff of the Kwantung Army  
3 attempted at first to draw out Emperor HSUAN TUNG  
4 to Manchuria, but this plan did not make much head-  
5 way owing to the Emperor having backed out as a  
6 result of KASHII, Commander of the Japanese Garrison  
7 Troops at Tientsin, having advised the Emperor to be  
8 prudent. Therefore they, by dispatching a certain  
9 UEZUMI (T.N.?), a political free lancer, to Tientsin  
10 later on in order to consult Battalion Commander  
11 SAKAI, possessing radical views, had planned to  
12 kidnap the Emperor to Tangku, where he was to be  
13 put into a cargo-boat and then landed at Yingkow;  
14 however, this plan could not be realized due to the  
15 strict watch kept by the Japanese police at the  
16 Emperor's residence. Consequently, it has been  
17 arranged to newly entrust Col. DOIHARA with the afore-  
18 mentioned mission, and the Colonel left here secretly  
19 for Tientsin via Dairen with a political free lancer  
20 named Takeshi OTANI on the evening of the 26th. (Free  
21 lancer Tetsusuburo KUDO might perhaps join this party  
22 from Dairen). On arriving at Tientsin they are ex-  
23 pected to resort to some suitable measure for  
24 executing the plan.  
25

"Furthermore, the other day Staff Officer



1 MIURA of the Garrison Troops came on a visit here  
2 for liaison purpose in this matter.

3 "This wire has been relayed to the Foreign  
4 Minister, Ambassador To China and Peiping."

5 Q Then 1767A(17), please. (End of reading).

6 MR. BROOKS: If your Honor please, in  
7 copying this into the record on page 35 of the record,  
8 if you will refer to the exhibit, they left out the  
9 words, "(Copy No. 4-1-205)." I think that we should  
10 have this shown in the record when it is recopied  
11 again that that does appear at the first part of the  
12 telegram. The reason I say that, there is no cer-  
13 tificate as to its being a copy of the original or  
14 anything of that nature.

15 MR. COMYNS CARR: I have no objection, if  
16 my friend pleases.

17 MR. BROOKS: IPS document No. 1767A(17),  
18 and immediately under that, if you notice, it says,  
19 "(Copy No. 4-1-205)," if your Honor please, and that  
20 does not appear at page 35 on this copy. It was left  
21 out.

22 MR. COMYNS CARR: There is a certificate  
23 attached to it, as your Honor will see if you look at  
24 the exhibit at the end of the record, that it is an  
25 official document in the custody of the Foreign

1 MIURA of the Garrison Troops came on a visit here  
2 for liaison purpose in this matter.

3 "This wire has been relayed to the Foreign  
4 Minister, Ambassador To China and Peiping."

5 Q Then 1767A(17), please. (End of reading).

6 MR. BROOKS: If your Honor please, in  
7 copying this into the record on page 35 of the record,  
8 if you will refer to the exhibit, they left out the  
9 words, "(Copy No. 4-1-205)." I think that we should  
10 have this shown in the record when it is recopied  
11 again that that does appear at the first part of the  
12 telegram. The reason I say that, there is no cer-  
13 tificate as to its being a copy of the original or  
14 anything of that nature.

15 MR. COMYNS CARR: I have no objection, if  
16 my friend pleases.

17 MR. BROOKS: IPS document No. 1767A(17),  
18 and immediately under that, if you notice, it says,  
19 "(Copy No. 4-1-205)," if your Honor please, and that  
20 does not appear at page 35 on this copy. It was left  
21 out.

22 MR. COMYNS CARR: There is a certificate  
23 attached to it, as your Honor will see if you look at  
24 the exhibit at the end of the record, that it is an  
25 official document in the custody of the Foreign

1 Ministry.

2 MR. BROOKS: I do not dispute that, your  
3 Honor. I said that there was no certificate that  
4 this was a certified, true copy of the original.

5 MR. COMYNS CARR: Continuing to read at  
6 the top of page 37 --

7 MR. BROOKS: If the Tribunal please, will  
8 that correction be made? There was no ruling.

9 ACTING PRESIDENT: It may be made.  
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1 Ministry.

2 MR. BROOKS: I do not dispute that, your  
3 Honor. I said that there was no certificate that  
4 this was a certified, true copy of the original.

5 MR. COMYNS CARR: Continuing to read at  
6 the top of page 37 --

7 MR. BROOKS: If the Tribunal please, will  
8 that correction be made? There was no ruling.

9 ACTING PRESIDENT: It may be made.  
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1 MR. COMYNS CARR: (Reading)

2 Q Then 1767A(12), please. Is that a telegram  
3 from Consul General HAYASHI at Mukden to yourself  
4 dated November 7, 1931?

5 A Yes.

6 MR. COMYNS CARR: I tender that in evidence,  
7 your Honor.

8 THE COMMISSIONER: Subject to the objection  
9 of the defense, document 1767A(12) will be received  
10 in evidence and marked with the letter "J."

11 I am stating these as subject to objection.  
12 Are they all subject to objection?

13 MR. BROOKS: Yes, they are, your Honor.

14 THE COMMISSIONER: Very well. Please don't  
15 elaborate. We needn't take the time.

16 (Whereupon, document 1767A(12) was  
17 marked prosecution exhibit "J" for identifi-  
18 cation.)

19 (End of reading)

20 MR. COMYNS CARR: And I ask that it be received  
21 in evidence and so marked -- be marked as an exhibit  
22 now.

23 ACTING PRESIDENT: It will be admitted in  
24 evidence.

25 CLERK OF THE COURT: Prosecution document



1 No. 1767A(12) will receive exhibit No. 3479-I.

2 (Whereupon, the document above  
3 referred to was marked prosecution exhibit  
4 No. 3479-I and received in evidence.)

5 MR. BROOKS: I wish to make the same state-  
6 ment, your Honor, in regard to this document and ask  
7 that the words "(Copy No. 4-1-264)" be inserted.  
8 It has been left out.

9 ACTING PRESIDENT: What is the importance  
10 of your request, Captain Brooks?

11 MR. BROOKS: There is no certificate of  
12 authenticity that this is an authentic, a certified,  
13 true copy of the original, and it goes to the weight  
14 of the document, the probative value of the document,  
15 if something arises on it later. It shows that it is  
16 a copy, not the original. I wanted the record to  
17 show exactly what the document shows so that later on  
18 if it does become important we can raise it at that  
19 time. I am not saying that it isn't a true copy; I  
20 can't say. Neither can the prosecution.

21 ACTING PRESIDENT: The record will so show.

22 MR. COMYNS CARR: I might just say, your  
23 Honor, that the witness has testified that there were  
24 copies of all these copies made at the time for circu-  
25 lation to the persons he has named; and these two

copies, like the other documents which are the originals, come from the Foreign Office files.

Has it been marked, this one?

CLERK OF THE COURT: Yes.

MR. COMYNS CARR: (Reading)

"From Consul-General HAYASHI at Mukden to Minister SHIDEHARA for Foreign Affairs.

"(No. 4-1-264, Copy)

"Mukden Dispatched a.m. November 7, 1931.

"Received p.m. November 8, 1931.

"Telegraph No. 1221 (Secret Code).

"Referring to outgoing telegram No. 1211.

"As the result of pressure being brought upon Yuan Chin-Kai by the Army Headquarters on the night of the 6th, in the morning of the 7th the Local Peace Preservation Committee held an executives' meeting and decided to add to the decree on acting for the regime the words that it would sever relations with the old regime of Chang Hsueh-liang and the National Government as required by the Army, and this is to be published on the 8th.

"Relayed this wire to China, Peiping and Tientsin."

1 Q Then document 1767A(11), please. Is that  
2 a telegram from Consul General HAYASHI to yourself  
3 dated the 28th of October, 1931?

4 A Yes, that is quite right, yes.

5 MR. COMYNS CARR: I tender that one, your  
6 Honor, but the translation of the last sentence is  
7 rather imperfect in English, and I propose to supply  
8 a better one. Perhaps, if I might read the last  
9 sentence as it should read when better translated,  
10 that can go into the record, or if I hand the cor-  
11 rected copy to the court reporter, may it go in in  
12 that form?

13 THE COMMISSIONER: Very well. And, if the  
14 defense challenge that translation, perhaps they  
15 will be good enough, before the proceedings of the  
16 Commission are read, to examine it.

17 MR. BROOKS: If your Honor please, we have  
18 one of the arbiters here. Can he compare it right  
19 now and check it?

20 MR. COMYNS CARR: By all means. Hand the  
21 original to the witness, and I will hand my proposed  
22 improved translation. You will see it written in  
23 pencil on the bottom in place of what is mimeographed  
24 in the last sentence.

25 THE COMMISSIONER: Will you proceed to read

1 Q Then document 1767A(11), please. Is that  
2 a telegram from Consul General HAYASHI to yourself  
3 dated the 28th of October, 1931?

4 A Yes, that is quite right, yes.

5 MR. COMYNS CARR: I tender that one, your  
6 Honor, but the translation of the last sentence is  
7 rather imperfect in English, and I propose to supply  
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18 one of the arbiters here. Can he compare it right  
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21 original to the witness, and I will hand my proposed  
22 improved translation. You will see it written in  
23 pencil on the bottom in place of what is mimeographed  
24 in the last sentence.

25 THE COMMISSIONER: Will you proceed to read

SHIDEHARA

CROSS

33,625

1 what you suggest is the better translation?

2 MR. COLYNS CARR: Well, I have handed my  
3 only copy of that to the arbiter. When the lang-  
4 uage arbiter has had the opportunity of looking at  
5 it, he can tell us; and if he approves, then that  
6 copy can go into the record.

7 THE COMMISSIONER: Yes. Meanwhile, go on  
8 with your other documents.

9 MR. COLYNS CARR: Meanwhile, the letter  
10 will be I for that.

11 THE COMMISSIONER: Yes. Very well. Prosec-  
12 ution document 1767A(11), subject to the objection  
13 of the defense, will be received in evidence and  
14 marked with the letter "I."

15 (Whereupon, document 1767A(11)  
16 was marked prosecution exhibit "I" for  
17 identification.)  
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(End of reading)

1 MR. COMYNS CARR: And I ask that the document  
2 with the translation as amended by the language  
3 arbiter, which appears in the record and was copied  
4 into it by the Commissioner's directions, be now  
5 received in evidence and marked "I."

6 ACTING PRESIDENT: It will be received in  
7 evidence, but you have already got an "I."

8 Suppose you get that straightened out during  
9 the recess. We will recess for fifteen minutes.  
10

11 (Whereupon, at 1445, a recess was  
12 taken until 1500, after which the proceed-  
13 ings were resumed as follows:)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 MR. COMYNS CARR: Your Honor, with regard  
4 to the slight confusion in the lettering of those  
5 two exhibits, by agreement with Mr. Brooks, we  
6 suggest that A-12, which was marked in the  
7 Commissioner's report "J" but has now been marked  
8 "I", should be marked "J", as in the Commissioner's  
9 report. The marking should be changed, and that  
10 A-11, which I am now coming to, should be marked  
11 "I". That will not only avoid confusion in the  
12 report but will also preserve the continuity of  
13 date.

14 MR. BROOKS: The defense agrees with the  
15 prosecutor's remarks, if your Honor please.

16 ACTING PRESIDENT: That change will be made.

17 CLERK OF THE COURT: Prosecution document  
18 No. 1767-A(12) will receive exhibit No. 3479-J, and  
19 prosecution document No. 1767-A(11) will receive  
20 exhibit No. 3479-I.

21 (Whereupon, the documents above  
22 referred to were marked prosecution exhibit  
23 Nos. 3479-J and 3479-I, respectively, and  
24 received in evidence.)

25 MR. COMYNS CARR: In this one also, there

1 is an omission in the record, which my friend  
2 desires me to mention. In the exhibit, as shown  
3 at the end of the record, there appear the words,  
4 "Copy No. (blank)".

5 (Reading Continued)  
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1 "From: Consul-General YAHASHI at Mukden

2 "To : Foreign Minister SHIDEHARA

3 "Despatched: From Mukden 28 Oct. 1931, P.M.

4 "Received: 28 Oct. 1931, P.M.

5 "Telegram No. 1126-2 (cipher)

6 "(c) In a prefecture a prefectural Autonomy  
7 Guidance Committee shall be established under the  
8 supervision of the Local Autonomy Guidance office.  
9 It shall guide and supervise the prefectural Autonomy  
10 Executive Committee and the Guidance Committee shall  
11 be actually occupied by Japanese.

12 "(d) Furthermore, a policy was decided upon  
13 to provide separately, an autonomy inspection office  
14 for the inspection of the prefectural autonomy, and  
15 to establish an Autonomy Guidance Members' Training  
16 Center for the training of the Autonomy Guidance mem-  
17 bers. The Autonomy Guidance office is said to be  
18 comprised of youth league members in the employee of  
19 the South Manchurian Railway.

20 "(III) On the 28th, the military called  
21 together the garrison commanders and the provost  
22 marshals of the various areas to support this policy.  
23 At this meeting, Chief of the Staff, MIYAKE, gave  
24 instructions that this enforcement of the local auto-  
25 nomy and the policy mentioned above shall be



1 absolutely a matter of the internal relations, and  
2 shall never be revealed outwardly, for we are aiming  
3 at the practical effects, as since among the various  
4 prefectures, there are many which are steadily  
5 succeeding in their administration in enforcing the  
6 present autonomy system. Therefore clear instruc-  
7 tions were issued that special attention be given to  
8 the aforesaid points and every effort made towards  
9 the realization of local autonomy in accordance with  
10 conditions in each area and subject to what had been  
11 recognized as suitable /in each case/.

12 "Transmitted to China, Peiping, and all the  
13 consuls in Manchuria."

14 (End reading.)

15 The Tribunal will notice that that is  
16 evidently the second part of a telegram, the first  
17 part of which is missing. The number is 2 and the  
18 beginning in the middle of the lettering.

19 Continuing the reading at the top of page  
20 43:

21 (Reading continued.)  
22  
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24  
25



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2 shall never be revealed outwardly, for we are aiming  
3 at the practical effects, as since among the various  
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11 recognized as suitable /in each case/.

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13 consuls in Manchuria."

14 (End reading.)

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16 evidently the second part of a telegram, the first  
17 part of which is missing. The number is 2 and the  
18 beginning in the middle of the lettering.

19 Continuing the reading at the top of page  
20 43:

21 (Reading continued.)  
22  
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1           Q   Now, Baron, was it apparent to you from  
2 the various reports you were getting from these  
3 consuls that the army in Manchuria -- the Kwantung  
4 Army was not, in fact, complying with the directions  
5 which you tell us you and General MINAMI had agreed  
6 that he should give them?

7           A   That is quite true. They were not observing  
8 the decisions of the Cabinet.

9           Q   And as that was repeatedly brought to your  
10 notice, did you take any further steps to try and  
11 get General MINAMI to compel them to do so?

12          A   I have often told MINAMI of what was then  
13 happening there in Manchuria, but my impression was  
14 that he practically had no power to control these  
15 men.

16          Q   Was it no power or no desire?

17          A   I am sure he had every desire to put into  
18 force -- put into practice what was discussed and  
19 determined at the Cabinet Council, but his idea or  
20 his order was not, in fact, obeyed by his subordin-  
21 ates in various parts of Manchuria.

22          Q   Did you ask him why he did not recall those  
23 subordinates who wouldn't obey his order?

24          A   There are so many of these subordinate  
25 officers there that I was, I remember -- that

1 suggestion was made at the Cabinet Council, but MINAMI,  
2 he looked very much embarrassed, and I don't think  
3 he sent out orders for instructions of that kind to  
4 Manchuria.

5 Q Did he say that sending instructions as to  
6 what they were to do would be of no avail?

7 A I am not quite sure what he thought about  
8 it, but the fact was plain that his repeated in-  
9 structions and orders proved of no avail.

10 Q Now, the Cabinet could, if they had wished,  
11 could they not, have stopped financial supplies to  
12 the Kwantung Army?

13 A That had not been discussed at the Cabinet  
14 Council.

15 Q But it was an obvious way of putting a stop  
16 to it, wasn't it?

17 A I am not quite sure. It was decided in  
18 the budget that whatever contained in the budget or  
19 these expenses were stated in the budget, and budget,  
20 when approved by the then Imperial Diet, the govern-  
21 ment had to carry it into practice.

22 Q Had the budget been approved before this  
23 Manchurian Incident broke out?

24 A Oh, yes, yes.

25 Q And, therefore, I take it there was no

1 provision in the budget, was there, for the addi-  
2 tional expenses caused by this Manchurian Incident?

3 A I don't remember exactly whether we applied  
4 for a supplementary budget. That I don't remember.  
5 I think, so far as this WAKATSUKI Cabinet was in  
6 power, there was no question of supplementary bud-  
7 get being discussed at the Cabinet.

8 Q And where did the money come from to pro-  
9 vide for the expenses of the Manchurian Incident?

10 A You see, at that time the Diet was not  
11 in session; and without the approval of the Diet  
12 we couldn't spend then any sum of money, but so far  
13 as it is contained in the budget we have got to  
14 supply the necessary expenses. So far as it is  
15 approved -- contained in the budget.

16 Q That is to say, you had to supply the War  
17 Ministry with the amount of money which had been  
18 voted in the budget before the incident broke out.

19 A Even after, you see, even after the inci-  
20 dent broke out. The Cabinet collapsed in December,  
21 you see, in the early part of December.

22 Q Yes.

23 A And a few months expenses -- well, I don't  
24 know what the War Ministry did, but the War Ministry  
25 could find appropriate -- ample means within the



1 limits of the budget to find out the means of  
2 expenditures.

3 Q You say that according to your recollection  
4 it wasn't necessary for the War Ministry to apply  
5 for any further funds beyond what they already had  
6 in their budget during that period?

7 A My impression is that they didn't ask for  
8 any.

9 Q Well, let me just try and remind you. Do  
10 you remember the troops being moved from Korea with-  
11 out an Imperial order?

12 A Yes.

13 Q On the 21st of September or thereabouts.

14 A Yes.

15 Q And was there a very heated discussion in  
16 the Cabinet about that proceeding?

17 A Yes, I remember.

18 Q Now, before that actually happened, had  
19 General MINAMI proposed that reinforcements should  
20 be sent from Korea and had the Cabinet refused to  
21 agree?

22 A I don't believe that MINAMI had first pro-  
23 posed that reinforcements be sent from Korea. The  
24 report of the reinforcements being sent from Korea  
25 came rather as a surprise to all of us.



1 Q I suggest to you that he had brought up the  
2 proposal on two occasions before it happened.

3 A Korea reinforcements, do you mean?

4 Q Yes. And the Cabinet had refused to agree.

5 A I am not quite sure about this monetary --  
6 it is what the Finance Minister --

7 Q No, no. I am not asking you at the moment  
8 about the money. I am coming back to that in a  
9 minute. What I am asking you now is whether he did  
10 not on two occasions express a desire in the Cabinet  
11 that he should have permission to send troops from  
12 Korea into Manchuria, and did not the Cabinet on  
13 each occasion refuse that permission?

14 A I am not quite certain about it.

15 Q Do you remember one occasion?

16 A No.

17 Q You don't remember any occasion at all?

18 A No, I don't remember any occasion at all.

19 Q Well, now, then, when he reported on the  
20 22nd of September that, in fact, the troops had been  
21 sent from Korea to Manchuria without permission, did  
22 he then ask the Cabinet to provide the necessary  
23 funds, and did the Cabinet agree to do so?

24 A I don't believe that the question of pro-  
25 viding the funds was taken up at the Cabinet Council.

1           Q    I suggest to you that the Cabinet refused  
2 to express approval of what had been done but that  
3 they did agree to provide the money.

4           A    Do you mean that we had to ask for a sup-  
5 plementary budget to cover the expenses?

6           Q    That you agreed in some way or other to  
7 provide the additional expense caused by these  
8 troops having been sent from Korea.

9           A    I don't know how that could be done. You  
10 see, the budget received approval of the Diet, and  
11 the Cabinet had no power to modify the budget. If  
12 any additional expenditures were needed, what we  
13 could do was to apply to the Diet to call for extra-  
14 ordinary session of the Diet.

15           Q    I am not able to suggest to you how it was  
16 done, but I am definitely suggesting to you that the  
17 Cabinet agreed to find that money in whatever was  
18 the proper procedure. I don't mean before the  
19 troops had been sent, but after they had been sent  
20 the Cabinet so agreed.

21           MR. BROOKS: I think, if your Honor please,  
22 that question has been asked three or four times and  
23 answered. I object to it as being repetitious.

24           THE COMMISSIONER: Objection overruled.

25           A    Well, I believe that I have already stated

1 that after the Incident broke out -- after the  
2 reinforcements had been sent from Korea the War  
3 Ministry thought that the expenditures could be de-  
4 frayed within the limits of the budget, and they, as  
5 I remember, didn't apply for any additional expendi-  
6 ture.

7 Q Did War Minister MINAMI, if that is correct,  
8 apply for the approval of the Cabinet to his approp-  
9 riating part of his original budget to pay for this  
10 expenditure?

11 A No, I don't remember that he did so. It  
12 was not necessary. So far as it was already ap-  
13 proved by the Diet, there is no need for him to go  
14 to the Cabinet to ask for additional expenditures  
15 so far as these expenditures could be covered within  
16 the limits of the budget.

17 Q Now, was it within the power of General  
18 MINAMI to apply or refuse to apply part of the  
19 money already voted in the budget for the War  
20 Ministry to expenses in Manchuria?

21 A I remember that so far as the WAKATSUKI  
22 Cabinet was in power, the expenditures needed were  
23 not such a large amount.

24 Q That may be, but what I am suggesting to  
25 you is this. If no additional money was wanted

1 beyond what had already been voted, then it was  
2 within the power of General MINAMI to say no part  
3 of what has been voted shall be applied to expenses  
4 incurred contrary to orders in this Manchurian  
5 Incident. Isn't that so?

6 A The fact is that he had not asked permis-  
7 sion or he had not brought up that question before  
8 the Cabinet Council, so I don't know how that ques-  
9 tion was dealt with there.

10 Q I am suggesting to you that it was obvious  
11 that if he was really sincere in wanting to stop  
12 this, he had complete power to do it in one of two  
13 ways, either by refusing to find the money out of  
14 his budget or by recalling those officers who were  
15 not carrying out his instructions, and that he did  
16 neither. Isn't that right?

17 A That is right. That is legally right. But,  
18 if that would be -- you see, within his practical  
19 power to do that. You see, there might be quite  
20 revolution among these army men, and he would be  
21 placed in a very impossible position. Perhaps he  
22 thought about it and he didn't press that question  
23 at the Cabinet Council.

24 Q Then is your explanation of his having done  
25 nothing effective to stop it that he was afraid of



1 a revolution?

2 A Revolution might be, perhaps, a strong  
3 term, but there might be wholesale indiscipline,  
4 and the men there in Manchuria, without any money,  
5 how could they live? You see, MINAMI had to look  
6 at the question from that practical side, I thought.

7 Q Then are you telling us that it was con-  
8 sidered better that a war should be carried on in  
9 Manchuria contrary, as you say, to your orders than  
10 that the troops in Manchuria should be left without  
11 money to live?

12 A But they had already given assurance that  
13 there would be no aggravation of war, and all that  
14 we did was put that declaration into effect with  
15 possibly less friction.

16 Q Now I'll ask you about another matter.  
17 Consul HAYASHI from the very beginning had been  
18 making reports extremely adverse with regard to the  
19 conduct of the military in Manchuria, had he not?

20 A Yes, he was supposed to.

21 Q And you tell us that you passed on those  
22 reports to General MINAMI and to the General Staff?

23 A Yes.

24 Q Now, did you know, as was proved by the  
25 defense yesterday, that on the 20th of September,



1 a revolution?

2 A Revolution might be, perhaps, a strong  
3 term, but there might be wholesale indiscipline,  
4 and the men there in Manchuria, without any money,  
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6 at the question from that practical side, I thought.

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19 conduct of the military in Manchuria, had he not?

20 A Yes, he was supposed to.

21 Q And you tell us that you passed on those  
22 reports to General MINAMI and to the General Staff?

23 A Yes.

24 Q Now, did you know, as was proved by the  
25 defense yesterday, that on the 20th of September,

1 1931, the Vice-Chief of the General Staff sent a  
2 telegram to the Chief of Staff of the Kwantung Army,  
3 exhibit 3422-B, paragraph 8, in the following terms:  
4 "As some officials in the Japanese diplomatic and  
5 South Manchurian Railway circles in Manchuria are  
6 suspected of sending groundless reports about actions  
7 of the Army, please endeavor to investigate their  
8 sources and seriously provide all means to eliminate  
9 such unpatriotic acts. I believe that the Army  
10 should make a declaration of its grave resolution  
11 in case unpatriotic schemes are still continued."?

12 Did you know that was what the General Staff  
13 in Tokyo was telegraphing to Mukden about your  
14 Consul General there?

15 A Well, was that a telegram from the General  
16 Staff?

17 Q General Staff in Tokyo to the Chief of  
18 Staff in Mukden.

19 A In Mukden.

20 Q Or in Manchuria, wherever he was.

21 A Well, they haven't sent me a copy of that  
22 telegram. I have no knowledge whatever.

23 Q Well, let's just carry that a little fur-  
24 ther. Was there a man named MORISHIMA who was the  
25 head of the Asiatic Bureau in your ministry?

1           A    Yes.

2           Q    That is a different man from the MORISHIMA  
3 who was assistant consul in Mukden.

4           A    Yes.

5           Q    Now, did that MORISHIMA go, I suppose on  
6 your order, to Mukden to investigate matters at  
7 first hand?

8           A    That he should go to Mukden to investigate  
9 the incident?

10          Q    Yes, or did you send him to Mukden for any  
11 purpose in September, 1931?

12          A    I don't think I did. There was the Consul  
13 General there, HAYASHI, and I don't think there was  
14 any additional -- any special reason for sending  
15 another man from Tokyo.

16          Q    What I am suggesting is that MORISHIMA was  
17 sent from Tokyo, the Section Chief of the Asia  
18 Bureau, to see HAYASHI and find out for himself what  
19 was happening there.

20          A    Well, that is not impossible.

21          Q    Let me try and refresh you with what I am  
22 going to suggest he reported when he came back. Did  
23 he say that he had said to HAYASHI, "The Cabinet does  
24 not want this incident to enlarge. Therefore, I want  
25 you to bear that in mind in handling all matters"?

1 And did he say that Consul General HAYASHI had  
2 replied, "That is practically impossible"?

3 A Well, what date was that?

4 Q At some time before the 2nd of October,  
5 1931. That is to say, in the last week of September  
6 or just at the beginning of October.

7 A No, I don't remember.

8 Q Did he say that the situation in Manchuria  
9 was such that the incident had only a tendency to  
10 expand further?

11 A No, I don't remember whether he reported  
12 that to me.

13 Q Did he say that even the life of Consul  
14 General HAYASHI was in danger?

15 A Possibly, but I don't remember.

16 Q Well, now, you've heard what the General  
17 Staff were telegraphing about HAYASHI to the Chief  
18 of Staff in Manchuria. Wouldn't be surprising if  
19 HAYASHI's life was in danger, would it?

20 A Probably so. His life may be in danger.  
21 But everybody's life was in danger, including my-  
22 self. My own life was in danger.

23 Q Yes, I realize that. Did MORISHIMA report  
24 that the militarists in Manchuria considered HAYASHI  
25 an obstacle and there was an indication of an at-



1     tempted assassination?

2             A     I don't know if there was any attempt at  
3     assassination of HAYASHI.

4             Q     Now, I am coming now to something which I  
5     think may help you to remember this report of  
6     MORISHIMA's. Did MORISHIMA report to you that the  
7     condition there was such that even the commander in  
8     chief of the Kwantung Army was in a state of re-  
9     striction to quarters?

10            A     I heard that, yes.

11            Q     Yes. I thought you had heard that. And  
12     did you not hear it from MORISHIMA? I am reminding  
13     you now. Don't you think it was from MORISHIMA  
14     that you heard it?

15            A     I don't know whether I learned it from  
16     MORISHIMA, but I heard that from somewhere, and it  
17     was an open secret at that time. Nobody could  
18     approach the commander in chief, the commander of the  
19     Kwantung Army himself. If anybody should go there  
20     and apply for interview with him, the subordinate  
21     officers would come and say no, you shouldn't approach  
22     direct to the commander.

23            Q     Did MORISHIMA report that three staff  
24     officers of the Kwantung Army, ISHIHARA, HANATANI  
25     and ITAGAKI, were the center of activity in Man-



1 churia; and, since the Chief of Staff of the Kwan-  
2 tung Army, MIYAKE, was not at all able to control  
3 his staff, the three were left to do things as they  
4 pleased?

5 A I don't remember that MORISHIMA reported  
6 that to me.

7 Q Did he report that when these three offi-  
8 cers drank together they always boasted that this  
9 plot was planned long ago?

10 A No, I don't think I --

11 Q Well, if he had so reported, it would have  
12 agreed with the information that you had from the  
13 businessmen from Manchuria, wouldn't it?

14 A It would. But I don't remember --

15 Q You don't remember hearing that from  
16 MORISHIMA. Did he say that these men said that on  
17 the 25th of July an artillery battery was already  
18 ready in Mukden?

19 A 25th of July?

20 Q Yes.

21 A Next year?

22 Q Perhaps you haven't understood. What I  
23 am suggesting is that these three men, according to  
24 MORISHIMA, were saying that an artillery battery was  
25 made ready in Mukden as early as the 25th of July.

1           A     No, I hadn't heard of that. It was ready,  
2     you said.

3                 Was made ready, yes, on the 25th of July.  
4     Had not MORISHIMA previously reported in August  
5     that the Army was attempting to use the killing of  
6     Captain NAKAMURA in Mongolia as a tool for the so-  
7     lution of the Manchuria-Mongolian matter by enlarg-  
8     ing its importance?

9           MR. BROOKS: If your Honor please, I have  
10    been listening right along, and I want to object.  
11    This is all outside of this affidavit. To save  
12    time I wish I could enter a continuing objection.

13           THE COMMISSIONER: I cannot take it in that  
14    general way. I was prepared to accept it. In regard  
15    to the objection that this particular question is  
16    outside the scope of the affidavit, the objection  
17    is overruled and may be renewed before the Tribunal.

18           Q     Do you remember MORISHIMA so reporting on  
19    or about the 23rd of August 1931?

20           A     It is difficult to remember all these par-  
21    ticulars.

22           Q     Yes.

23           A     It is years, years ago.

24           Q     Now, I will leave that matter, and I want  
25

1 to ask you about the subject matter of the telegrams  
2 from KUWASHIMA and others, about the escape of Pu-Yi  
3 from Tientsin at the end of October and November  
4 and his ultimate arrival in Manchuria.

5 MR. BROOKS: I object to that, your Honor,  
6 as not arising out of the affidavit and also being  
7 repetitious. There is an affidavit by the prosecu-  
8 tion.

9 THE COMMISSIONER: The objection will be  
10 noted and may be resumed before the Tribunal.

11 Q Did MINAMI take the view on that point that  
12 it was a good -- it would be a good thing in due  
13 course to have, at the proper time, an independent  
14 Manchuria established under Pu-Yi but that it was  
15 premature at the date in question, namely October  
16 and November, 1931?

17 MR. BROOKS: Objection to that question.  
18

19 A I can't --

20 MR. BROOKS: It is repetitious.

21 A (Continuing) I can't tell what MINAMI had  
22 in mind with that question. I hadn't discussed with  
23 him on that phase of the matter.

24 Q Did you take the same view -- that view  
25 yourself?

A It was not only premature, it was alto-

1     gether wrong, it seems to me, that course of action.

2     (End of reading)

3             Now, may it please the Tribunal, I am  
4     prepared to omit, subject to my friend's agreement,  
5     from there to near the bottom of page 63 on this  
6     ground; that the questions included there were based  
7     on exhibit 286 and the witness pointed out errors  
8     in the translation of that exhibit. It was ultimately  
9     agreed to refer it to the Language Arbitration Board  
10    who have reported just before this report of this  
11    commission was read certain corrections in that  
12    translation.. Therefore it seems to be a waste of the  
13    time of the Tribunal to read a part of the cross-  
14    examination which turns out to have been based on  
15    an erroneous translation.

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1    gether wrong, it seems to me, that course of action.  
2    (End of reading)

3            Now, may it please the Tribunal, I am  
4    prepared to omit, subject to my friend's agreement,  
5    from there to near the bottom of page 63 on this  
6    ground; that the questions included there were based  
7    on exhibit 286 and the witness pointed out errors  
8    in the translation of that exhibit. It was ultimately  
9    agreed to refer it to the Language Arbitration Board  
10   who have reported just before this report of this  
11   commission was read certain corrections in that  
12   translation.. Therefore it seems to be a waste of the  
13   time of the Tribunal to read a part of the cross-  
14   examination which turns out to have been based on  
15   an erroneous translation.  
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1 MR. BROOKS: If the Tribunal please, I cannot  
2 agree with the prosecutor. I state that it should be  
3 read. There are two or three points in there that are  
4 explained that are beneficial to the defense. Also,  
5 I wish to state that the correction made by the Language  
6 Arbitration Board was only on exhibit 286, and did not  
7 appear in the record of the proceedings of the 19th  
8 of November. I asked at the time that it be transcribed  
9 as if it had been read but it was through error or  
10 oversight that it was not done. However, I would like  
11 to ask that the Language Arbitration Board correct  
12 court record page 4356 to 4358 in accordance with their  
13 correction of exhibit 286 made yesterday, 19 November,  
14 and that it be spread upon the record when they do make  
15 that correction. They may be able to do it now. I  
16 called this to the attention of the Language Arbitration  
17 Board previously and they may be prepared to do that.  
18 I am not certain, your Honor. However, it can be done  
19 the first thing in the morning rather than interrupt it  
20 at this time. I do suggest that this be read.

21 ACTING PRESIDENT: If there are any corrections,  
22 they should be made.

23 What is it that you agree on now should not be  
24 read?  
25

MR. BROOKS: I would say, your Honor, that

1 since this is in evidence, I would read this myself if  
2 the prosecution does not intend to do so.

3 MR. COMVNS CARR: Well, your Honor, it is  
4 difficult to understand, but if my friend says that, I  
5 had better read it.

6 ACTING PRESIDENT: Proceed.

7 MR. COMVNS CARR: (Reading continued) Might  
8 the witness see exhibit 286?

9 Q Is that your telegram sent by you to KUWASHIMA  
10 in Tientsin on the 1st of November, 1931? I will be  
11 directing your attention to parts of it soon. If you  
12 will, just look at it and see if that is your telegram  
13 or a copy thereof.

14 A Yes, this is my telegram to Tientsin, to  
15 KUWASHIMA.

16 Q Yes, KUWASHIMA.

17 A November the 1st.

18 Q Yes.

19 A It says, to make Pu-Yi as the Emperor was en-  
20 tirely out of question. It is an anachronism, it says.

21 Q Well, now, let us just see. What I am sug-  
22 gesting is that you were instructing him that this was  
23 not the right time to make Pu-Yi the Emperor but that it  
24 would be a very good thing to do later on.  
25

1           A   No, no. This telegram doesn't signify that.

2           Q   Well, let me read to you just one or two  
3 passages of it. In the paragraph numbered 2, first  
4 of all you say, "However, to form an independent  
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1 state in Manchuria at this time would immediately  
2 raise the question as being contrary to Section 1,  
3 Article 1 of the Washington Nine Power Pact," and so  
4 on. Then a little lower down you find a portion in  
5 brackets: "Even if we make it in the form of a  
6 voluntary escape of the Emperor, the other Powers  
7 are not likely to believe this, and it is extremely  
8 difficult to keep incidents of this kind in secret."

9 A Quite so.

10 Q "In any case, the abduction of the Emperor  
11 at this time would bring us into the most unfavorable  
12 situation in face of the session of the Board of  
13 Directors on 16 November and world opinion will again  
14 be incensed and our scheme to carry out gradually our  
15 actual construction work in that locality later with  
16 the pacification of world opinion would be greatly  
17 handicapped."

18 A No, it doesn't say anything about that. The  
19 latter part, as you said.

20 MR. BROOKS: That should be referred, your  
21 Honor, to the language section, that exhibit 286.  
22 We've seen it. There are three mistakes in their  
23 translation. It seems to be a distorted translation,  
24 also in paragraph 4.

25 THE COMMISSIONER: This is rather late to



1 be doing it. But that is not a function of this  
2 Commission at any event. That is a function of  
3 the Court. You must make your application to the  
4 Court.

5 THE WITNESS: I am afraid what you read  
6 was not the right translation of the original.

7 THE COMMISSIONER: Would you be good enough  
8 to translate that portion yourself, Baron SHIDEHARA?  
9 That might help us.

10 THE WITNESS: The abduction of the Emperor  
11 Pu-Yi would prove a great obstacle to our construct-  
12 ive work to find out the solution of the question.  
13 Something of that kind.

14 Q Do you say that the words "at this time" do  
15 not appear?

16 A Oh, yes.

17 Q They do.

18 A Yes. But that doesn't mean that later on  
19 that might become a good thing.

20 MR. COMYNS CARE: Well, your Honor, I think  
21 I will not pursue this matter further with the wit-  
22 ness at this stage. The document, whatever the cor-  
23 rect translation of it may be, speaks for itself,  
24 and I will take steps to have it referred to the  
25 language arbitration board.



1 THE WITNESS: But you should make just one  
2 word more.

3 THE COMMISSIONER: Just a moment, please.  
4 You want to say something, Baron SHIDEHARA?

5 THE WITNESS: Yes. In any case, if you  
6 read the No. 3, it says, in any case, such a scheme  
7 simply an anachronism to bring Pu-Yi to Manchuria as  
8 the Emperor. Anachronism. Isn't a word of that  
9 kind used?

10 THE COMMISSIONER: Well, it does occur.  
11 "Quite erroneous of time" is the translation. I  
12 don't think I will make any suggestion.

13 MR. T. OKAMOTO: There are a great deal of  
14 mistakes.

15 MR. COMYNS CARR: Until it has been verified.  
16 It is, perhaps, unfortunate that, if the defense had  
17 any objection to this translation, they hadn't  
18 raised it before. But it had better be referred.

19 THE COMMISSIONER: If it is agreed on both  
20 sides, then I will ask Mr. Sañó to take in hand the  
21 revision of the translation of exhibit 286.

22 MR. COMYNS CARR: Thank you, yes.

23 MR. BROOKS: The whole of it.

24 MR. COMYNS CARR: The whole of it, yes, by  
25 all means. That concludes my cross-examination.

1           LANGUAGE ARBITER (Mr. Sano): I recommend  
2 the adoption of the revised translation of IPS in  
3 lieu of the last four lines of exhibit I.

4           THE COMMISSIONER: As offered here?

5           LANGUAGE ARBITER (Mr. Sano): Yes, as  
6 offered there.

7           THE COMMISSIONER: Well, that is in effect  
8 then.

9           MR. COLYNS CARR: You approve of the revised  
10 translation which we suggested ourselves?

11           LANGUAGE ARBITER (Mr. Sano): Yes.

12           MR. COLYNS CARR: Then will it be copied  
13 into the record in that form?

14           THE COMMISSIONER: Yes, if Mr. Greenberg  
15 will do so.

16           MR. COLYNS CARR: And when we serve it, it  
17 will be in the revised form.

18 BY MR. COLYNS CARR (Continued):

19           Q   Baron SHIDEHARA, there is one other matter  
20 I should ask you about. Do you remember a Cabinet  
21 meeting on the 1st of October --

22           THE COMMISSIONER: Of what year?

23           MR. COLYNS CARR: 1931.

24           Q   (Continuing) in which you asked for a  
25 clarification of the policy of the Japanese in Man-

1 churia before the opening of the meeting of the  
2 League of Nations Council to be held in Geneva on  
3 the 14th of that month?

4 A I think I did.

5 Q Yes. And did you suggest that the mainten-  
6 ance of more than necessary troops in Manchuria,  
7 and particularly in Kirin and Tungkai, would be  
8 harmful to the views that foreign powers would take  
9 at that meeting?

10 A Kirin --

11 Q I'm not sure that I have the name spelled  
12 right. We'll take the Kirin and leave out the other  
13 one.

14 A Dairen we call it. Dairen is the same  
15 thing. But some other port you mentioned.

16 Q Yes. I have it spelled here: T-u-n-g-  
17 k-a-i, Tungkai.

18 A Tungkao?

19 Q Don't trouble about the place names. Did  
20 you raise generally the question in the Cabinet of  
21 excessive troops being stationed in Manchuria on  
22 that occasion?

23 A Yes, quite possible. Tungkao means Tientsin.

24 Q Well, whatever it means, you raised that  
25 question. Did MINAMI propose that Japan should there

1 and then withdraw from the League of Nations?

2 A No.

3 Q Did he say, "If we withdraw troops now, the  
4 situation will be very difficult for us, and we will  
5 not be able to maintain control of the situation in  
6 Mukden and Kirin. In the first place, I believe it  
7 is better for Japan to withdraw from the League of  
8 Nations"?

9 A No, that question had never been raised.  
10 I am quite sure of it.

11 Q You said the question of withdrawing from  
12 the League of Nations was not discussed in the  
13 Cabinet at all.

14 A So far as I remember, there was no discus-  
15 sion at all. We were actively collaborating with  
16 the League of Nations at Geneva, and we supplied all  
17 the necessary information, and our delegates partici-  
18 pated in the debates and discussions all the time.  
19 And there was no occasion for MINAMI to say that we  
20 should withdraw from the League of Nations.

21 Q I am suggesting to you that on two occasions --  
22 and not suggesting that the rest of the Cabinet  
23 agreed with it -- MINAMI advocated that instead of  
24 trying to do what the League of Nations wanted, you  
25 should withdraw from the League of Nations.



1           A    I am almost sure -- I can say I am sure that  
2 MINAMI had not raised that question.

3           MR. CONYNS CARR: That is all I have.

4           THE COMMISSIONER: Do you wish to reexamine?  
5 (End of reading.)

6           MR. CONYNS CARR: And then Mr. Brooks re-  
7 examined.

8           MR. BROOKS: (Reading continued:)

9           MR. BROOKS: I have a question or two.

10                   REDIRECT EXAMINATION

11 BY MR. BROOKS:

12           Q    In the last part of your affidavit, Mr.,  
13 SHIDEHARA, you said there was an unfounded story as  
14 to one purporting that you had come to loggerheads  
15 with War Minister MINAMI on account of maintenance of  
16 opposite ideas at meetings of the Cabinet. Now, I take  
17 it by that that you mean that you --

18           MR. CONYNS CARR: I must object to that ques-  
19 tion as being leading.

20           MR. BROOKS: I haven't finished the question.

21           MR. CONYNS CARR: But it has begun to lead al-  
22 ready before you finish it.

23           THE COMMISSIONER: You may not say what you  
24 consider. You can only ask the witness to elaborate  
25 what requires elaboration.



1 MR. BROOKS: I withdraw the question and  
2 ask this one:

3 Q (Continuing) Were you and MINAMI having  
4 opposite ideas at the meetings of the Cabinet?

5 A Not on very important questions, no.

6 Q Were you having such ideas that would have  
7 led to friction between you?

8 A No.

9 Q Now, in answer to one of the prosecutor's  
10 questions, you said that something might be a legal  
11 point but that practically MINAMI had no choice in the  
12 matter. Do you recall what you were discussing?

13 A Yes.

14 Q Under the same circumstances, Baron SHIDEHARA,  
15 would you, yourself, and the Cabinet have supported  
16 MINAMI's decision in that matter, or did you support  
17 his decision in that matter? (End of reading.)

18 MR. BROOKS: Here I refer the Tribunal to  
19 page 1334 of the record, line 22, where the witness  
20 SHIDEHARA said that he agreed with MINAMI's ideas on  
21 previous testimony.

22 (Reading continued:)

23 THE COMMISSIONER: What matter is it, because  
24 I am at a loss to understand what you mean?  
25

1 MR. COMYN: CARR: I don't know what --

2 THE COMMISSIONER: What particular decision  
3 are you referring to, Mr. Brooks?

4 MR. BROOKS: The question of the prosecutor.  
5 I don't know how to put it myself.

6 Q Do you understand what I am talking about to  
7 you?

8 A I don't understand it exactly.

9 Q The supply of money.  
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1 A Oh, the supply of money.

2 Q And you said that this supply of money--  
3 this was a legal point and there was a practical  
4 point. Now can you answer my question?

5 A Yes.

6 Q Did you and the cabinet approve of the  
7 action that MINAMI actually took under the circum-  
8 stances?

9 THE COMMISSIONER: Approve of what action?

10 MR. BROOKS: Of any action -- of making a  
11 decision of that nature at that time.

12 MR. COMYNS CARR: I am afraid the question  
13 isn't clear to me if I had to answer it.

14 THE COMMISSIONER: I just do not understand  
15 the question. Making what decision or what action?

16 MR. BROOKS: Was there any decision made?

17 THE COMMISSIONER: About what?

18 A The decision was that we should try to do  
19 our best to localize the incident, not to bring about  
20 aggrandizement of the situation.

21 Q Would you say that MINAMI did his best to  
22 support the Cabinet in doing -- bringing about the  
23 localizing of the incident?

24 A His intention was, certainly, to localize  
25 the incident to prevent aggravation of the incident.

1 Q Would you say that MINAMI had it in his  
2 power to have prevented the further expansion of  
3 the incident?

4 A He had, I believe, a legal power, yes.

5 Q What do you mean by that 'legal power'?

6 A Well, it is under the law -- existing law  
7 he could send any order to his subordinates, but he  
8 probably looked at the question from a broader point  
9 of view: whether that would bring any deterioration  
10 of the whole situation in Manchuria. (End of reading)

11 I want to refer the Tribunal to pages 19,916  
12 and 19,917 on this point as to what MINAMI said, and  
13 also I want the Tribunal to compare what the witness  
14 SHIDEHARA said here with what he said at record page  
15 1338, line 16, and page 1392, line 17; also to record  
16 page 19,916 and 19,917, and 20,054 and 20,058.

17 (Reading continued:)

18 Q Do you mean that MINAMI, as War Minister,  
19 could send an operational order to officers in the  
20 field?

21 A Operational order?

22 Q Order. Do you know the difference between  
23 an operation order and an administrative order?

24 A No, he couldn't send an operational order.  
25 Operational order should be sent through the Chief

1 of the General Staff.

2 Q Was the Chief of the General Staff a sub-  
3 ordinate of the War Minister?

4 A No, no.

5 Q Was he a higher authority or of equal rank?

6 A Well, it is difficult to say, but equal,  
7 I should say. (End of reading)

8 I would like to refer the Tribunal here to  
9 page 1396 to 1398, the re-cross-examination of SHIDE-  
10 HARA, to show his lack of knowledge as to who was  
11 responsible for the action of the army and as to the  
12 High Command's functions being independent of the War  
13 Minister, as proven by other evidence offered by both  
14 the prosecution and the defense.

15 (Reading continued:)

16 THE COMMISSIONER: Any further questions,  
17 Mr. Brooks?

18 MR. BROOKS: I think that's all.

19 THE COMMISSIONER: Very well. I will ask  
20 Mr. Greenberg to prepare a transcription of the pro-  
21 ceedings, and upon that being done I will report to  
22 the Tribunal.

23 (Whereupon, at 1530, the proceedings  
24 were concluded.) (End of reading)  
25



1 MR. BROOKS: Now, if the Tribunal please, at  
2 this time I wish to refer to the counts of the  
3 Indictment in which MINAMI is not named.

4 ACTING PRESIDENT: I don't see how that is  
5 material at this time, Captain Brooks.

6 MR. BROOKS: I have not concluded, your  
7 Honor, the presentation of MINAMI's case. We only  
8 postponed it for this.

9 MR. COMYNS CARR: Nevertheless, in my submis-  
10 sion this is a matter for summation and not to be  
11 dealt with here today.

12 ACTING PRESIDENT: You can refer us to cer-  
13 tain pages of the transcript or something of that kind,  
14 but so far as the various counts of the Indictment are  
15 concerned, that is material at this time. It is a  
16 question for summation.

17 MR. BROOKS: I am making this reference to  
18 the counts in which MINAMI is not charged in the  
19 Indictment for the reason that I am not offering evi-  
20 dence on these counts, although the prosecution in  
21 certain instances has made references to evidence  
22 in matters in which the accused has not been charged,  
23 and I think --

24 ACTING PRESIDENT: That is a matter for argu-  
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2 the charges in which he is not named it would be  
3 apparent, when the Court reaches the end of my evi-  
4 dence, why I have not brought up certain matters in  
5 rebuttal.

6 ACTING PRESIDENT: One of my colleagues makes  
7 a very pertinent remark in that connection: that if  
8 he is not charged under any count of the Indictment,  
9 the Tribunal cannot find him guilty of it.

10 MR. BROOKS: I agree with that in the ordin-  
11 ary circumstances, but in an Indictment with the  
12 sweeping charges that are made in certain counts it  
13 might be taken that by not answering on certain  
14 matters I was going to refer to I am admitting or not  
15 refuting those matters. I don't press it, however.

16 ACTING PRESIDENT: Well, the Court doesn't  
17 want to hear it.

18 MR. BROOKS: I wish to refer to a question on  
19 cross-examination at page 1378, line 21, which was  
20 taken from Appendix A, Section 1, of the Indictment,  
21 and submit that the prosecution does not charge the  
22 WAKATSUKI Cabinet members -- government with acts of  
23 aggression in Manchuria.

24 ACTING PRESIDENT: We don't want any argument  
25 on that, Mr. Carr.

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13 might be taken that by not answering on certain  
14 matters I was going to refer to I am admitting or not  
15 refuting those matters. I don't press it, however.

16 ACTING PRESIDENT: Well, the Court doesn't  
17 want to hear it.

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19 cross-examination at page 1378, line 21, which was  
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22 WAKATSUKI Cabinet members -- government with acts of  
23 aggression in Manchuria.

24 ACTING PRESIDENT: We don't want any argument  
25 on that, Mr. Carr.



1 MR. BROOKS: Does the Court hold it is argu-  
2 mentative?

3 ACTING PRESIDENT: Yes.

4 MR. BROOKS: Then, I will close MINAMI's  
5 case at this time, subject to the production of cer-  
6 tain evidence in rebuttal of new evidence that has  
7 been received here if my co-counsel, who is sick,  
8 finds it necessary to do so.

9 ACTING PRESIDENT: You may present an applica-  
10 tion for that at the proper time.

11 Mr. Tavenner.

12 MR. TAVENNER: If it please the Tribunal, with  
13 regard to the ISHII affidavit in the MUTO phase, I am  
14 now informed that although cross-examination could be  
15 conducted during the first of the week by dividing  
16 time between a morning and an afternoon session, the  
17 witness is prepared for a serious operation on Tues-  
18 day or later. We have reconsidered the entire  
19 matter and under all the circumstances the prosecution  
20 does not desire to insist on its right to cross-examine  
21 or take further testimony by means of interrogations  
22 or interrogatories. In this situation it is suggest-  
23 ed that MUTO's phase be completed by the reading of  
24 the affidavit at an early time. It is obviously too  
25 late to begin this evening.



1           ACTING PRESIDENT: If it is agreeable to coun-  
2 sel for the accused MUTO, we will take it up the first  
3 thing in the morning.

4           Is there anything further to be submitted in  
5 the way of translation? If so, I will ask they be  
6 ready the first thing in the morning.

7           MR. BROOKS: 286 might be presented in the  
8 morning.

9           ACTING PRESIDENT: We will have that in the  
10 morning.

11          We will adjourn until 9:30 tomorrow morning.

12                   (Whereupon, at 1600, an adjournment  
13 was taken until Friday, 21 November 1947, at  
14 0930.)  
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